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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.02.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.389 of 2023
and
W.M.P.(MD)No.361 of 2023

A.Satheeskumar ... Petitioner

Vs.

1.The District Collector,
Thoothukudi,
Thoothukudi District.

2.The Tahsildar,
Ettayapuram Taluk,
Thoothukudi District.

3.The District Surveyor,
Thoothukudi District,
Thoothukudi.

4.S.Subbulakshmi ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 1 to 3 to take action on the petitioner's representation dated 31.12.2022 seeking not to survey the property in Survey No.125/1 and 125/3A situated in Kumaragiri Village, Ettayapuram Taluk, Thoothukudi District, till the disposal of the suit in O.S.No. 290 of 2022 on the file of the District Munsif Court, Kovilpatti.

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For Petitioner : Mr.R.J.Karthick

For Respondents : Mr.M.Lingadurai,
Spl. Government Pleader for R1 to R3.
Mr.M.Maran for R4.

ORDER

Heard the learned counsel on either side.

2.The fourth respondent herein wants survey to be conducted in respect of the petition mentioned land. The petitioner is opposing the same. The survey authority shall dispose of the application of the fourth respondent in the following directions:-

(I) The survey authority will issue notice to the writ petitioner as well as the adjacent land owners and also to the interested persons, if any.

(II) Enquiry shall be held. During enquiry, objections raised by the adjacent land owners / interested persons shall be considered.

(III) If according to the jurisdictional authority, the objections are without any basis, the same shall be overruled and the objectors shall be informed by a speaking order. But the survey will be

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conducted only after a period of six weeks so that the objector can move the concerned Court for injunction. If before the proposed date of survey, the objector is unable to obtain any injunction order, the survey can very well go on. It is open to the parties to serve memo on instructions to the surveyor at the time of conducting the survey. The same will be borne in mind. While it cannot be binding on the surveyor, the same will be taken note of.

(IV) If the jurisdictional authority finds objections to be having substance, then, he shall call upon the applicant to move the jurisdictional civil Court for agitating his rights.

(V) If required, the survey authority is empowered to seek aid of the jurisdictional police and the jurisdictional police are mandated to grant police protection.

(VI) It is made clear that at the end of the survey exercise, survey stones alone can be installed. The exercise of survey and demarcation undertaken pursuant to the direction of this Court can never result in dispossession of any party. No person shall put up fencing at the time of survey by using police aid. The Survey Authority will pass order within a period of six weeks after service of notice on the interested persons.

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(VII) A copy of the survey report will be served on the parties also.

3.The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

24.02.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:-

1.The District Collector,
Thoothukudi,
Thoothukudi District.

2.The Tahsildar,
Ettayapuram Taluk,
Thoothukudi District.

3.The District Surveyor,
Thoothukudi District,
Thoothukudi.

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G.R.SWAMINATHAN, J.

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