



W.P(MD)No.605 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.03.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.605 of 2023
and
W.M.P.(MD)No.593 of 2023

V.Sivasubramanian

... Petitioner

Vs.

1.The Tahsildar,
Taluk Office,
Sankarankovil Taluk,
Tenkasi District.

2.The Assistant Director of Survey and Land Reforms,
Tenkasi.

3.M.Ponpandian

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, forbearing the respondents in any manner proceeding to survey, measure, demarcate and lay survey stones in the property in ayan punjai Survey No.204/2 measuring an extent of 0.30.5 Hectare and ayan punjai Survey No.206/2 measuring an extent of 0.20.5, Chinnakovilankulam Village, Melaneelathanallur Panchayat, Tenkasi District.



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For Petitioner : Mr.M.P.Senthil

For Respondents : Mr.M.Lingadurai,
Spl. Government Pleader for R1 & R2.
Ms.M.Akila,
For M/s.Dictum Law Firms.

ORDER

Heard the learned counsel on either side.

2.The third respondent herein filed W.P.(MD)No.24905 of 2022 for conducting survey. The said writ petition was disposed of 02.11.2022 in the following terms:-

“Considering the aforesaid submission made by the learned Special Government Pleader appearing for the respondents, this Court, without going into the merits of the case, directs the first respondent to survey the property in question and demarcate the boundaries, based on the representation of the petitioner, dated 17.10.2022, after issuing notice to all the necessary parties concerned, within a period of 16 weeks from the date of receipt of a copy of this order”



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2.The petitioner's grievance is that he was not made as a party to the said writ petition. He also would state that he had filed a comprehensive suit subsequently.

3.The order of this Court earlier passed will not be understood to me that survey was ordered to be conducted without even considering the petitioner's objections. The survey authority will issue notice to the petitioner before conducting survey. The petitioner will be entitled to place his objections. The survey authority is bound to consider the petitioner's objections and pass a speaking order one way or the other. If the order is adverse to the petitioner, even thereafter, survey will not be conducted immediately. The petitioner has to be given a breathing time to move the jurisdictional Civil Court in the pending suit to seek an order of interim relief. Only if the petitioner is unable to get interim relief within six weeks thereafter, the survey can go on. In any event, the petitioner cannot be dispossessed in the guise of conducting survey. Even fencing cannot be put up by using police aid and survey stones can be laid at best.



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

01.03.2023

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

1.The Tahsildar,
Taluk Office,
Sankarankovil Taluk,
Tenkasi District.

2.The Assistant Director of Survey and Land Reforms,
Tenkasi.



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G.R.SWAMINATHAN, J.

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