



W.P(MD)No.2760 of 2021

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.2760 of 2021

Vijaya

... Petitioner

Vs.

1.The Tahsildar,
Aundipatti Taluk,
Theni District.

2.The Taluk Surveyor,
Aundipatti Taluk,
Theni District.

3.Subbuthai

4.Kennadi

5.Chellakkannu

6.Palanisamy

7.Muthaiya

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondents 1 & 2 to survey the petitioner's land having extent of 83 cents excluding northern portion of 73 cent within 1 Acre 56 cents comprised in lands situated in Survey



W.P(MD)No.2760 of 2021

Nos.30/4 and 30/54 respectively having extent of 30 cents and 1 Acre and 26 cents in K.Kamatchipuram Village, Aundipatti Taluk, Theni District on the basis of the petitioner's representation dated 01.02.2021.

For Petitioner : Mr.R.Shankar Ganesh
for M/s.Dictum Law Firm

For Respondents : Mr.B.Saravanan
Additional Government Pleader for R1 & R2
: Mr.D.Saravanan for R3 to R5

ORDER

The petitioner has applied to the jurisdictional authority for conducting survey of the petition mentioned lands and for demarcation of the boundaries. Since the authority had not acted upon the petitioner's request, this writ petition came to be filed.

2. The Writ Petition is disposed of with the following directions:-

(I) The petitioner is permitted to submit a fresh application for conducting survey. 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.



W.P(MD)No.2760 of 2021

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



W.P(MD)No.2760 of 2021

(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.

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

No costs.

01.03.2023

Index : Yes / No
Internet : Yes/ No
rmi

To

1.The Tahsildar,
Aundipatti Taluk,
Theni District.

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Aundipatti Taluk,
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W.P(MD)No.2760 of 2021

G.R.SWAMINATHAN, J.

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W.P(MD)No.2760 of 2021

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