



W.P(MD)No.2301 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.02.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.2301 of 2023

G.Periakaruppan

... Petitioner

Vs.

1.The Thasildar,
Taluk Office,
Melur, Melur Taluk,
Madurai District.

2.The Head Surveyor,
Taluk Office,
Melur, Melur Taluk,
Madurai District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents No.1 and 2 to survey and mark four boundaries of the petitioner land property in Survey No.415/5, E.Malam Patti Village, Melur Taluk with the extent of 0.20.0 acres (49.4 cents) based on the petitioner representation dated 28.03.2022 and subsequent representation dated 05.01.2023 within a time stipulated by this Court.



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For Petitioner : Mr.R.Karunanidhi

For Respondents : Mr.B.Saravanan,
Addl. Government Pleader.

ORDER

Heard the learned counsel on either side.

2.The petitioner wants this Court to direct the respondents to survey and demarcate the petition mentioned site. The learned Additional Government Pleader submitted that while the patta is in favour of the petitioner, possession is not with him. I am of the view that on this ground, the petitioner's request need not be rejected. Whenever petitions for conducting survey are filed, they are disposed of on 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.



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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 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



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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.

3. Conducting of survey will not lead to dispossession. In any event, it is open to the first respondent to take a call in the matter based on the objections that may be received.

4. Leaving it open to the discretion of the first respondent, the writ petition is disposed of. No costs.

06.02.2023

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

- 1.The Thasildar,
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Madurai District.
- 2.The Head Surveyor,
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G.R.SWAMINATHAN, J.

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**06.02.2023
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