



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.04.2023

CORAM

THE HONOURABLE MR.JUSTICE **C.V.KARTHIKEYAN**

W.P.(MD)No.4759 of 2023

and

W.M.P.(MD)No.4425 of 2023

S.J.Krishna

... Petitioner

vs.

1.The District Collector,
Theni District, Theni.

2.The Superintendent of Police,
Theni District, Theni.

3.The Tahsildar,
Theni Taluk Office, Theni District, Theni.

4.The Inspector of Survey,
Theni District, Theni.

5.The Town Sub Inspector of Survey,
Theni-Allinagaram Municipality,
Theni.

6.The Inspector of Police,
Theni Town Police Station,
Theni.

7.M.A.Sri Renga Raja

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to forbear the 1, 3 to 5 respondents from anyway measuring the premises of the property mentioned in Survey No.T.S.No.3/1 (R.S.No.529/A), in Theni Allinagaram Revenue Village, Theni and the third respondent from issuing the demarcation certificate.

For Petitioner	:Mr.K.Shanmuga Raja
For R1 to R6	:Mr.N.Muthu Vijayan Special Government Pleader
For R7	:Mr.G.S.Ashok Adhithyan

ORDER

This Writ Petition has been filed in the nature of a Mandamus seeking a negative order by forbearing the first, third to fifth respondents from measuring the premises of the property in T.S.No.3/1 (R.S.No. 529/A), in Theni Allinagaram Revenue Village, Theni, and also to forbear the third respondent from issuing a demarcation certificate.

2.Heard Mr.K.Shanmuga Raja, learned Counsel for the petitioner, Mr.N.Muthu Vijayan, learned Special Government Pleader for the respondents 1 to 6 and Mr.G.S.Ashok Adhithyan, learned Counsel for the seventh respondent.

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3. Though a Writ Petition has been filed, the dispute is only between the petitioner and the seventh respondent herein. As a matter of fact, it is also not just between the petitioner and the seventh respondent, but relates to the lands of a Club called “Sri Rengaraja Recreation Club”. The petitioner claims to be a senior member of the club. Earlier a Writ Petition was filed in W.P(MD)No.13284 of 2012 by the seventh respondent herein seeking a Mandamus directing the respondents therein to determine and record the disputed boundary with 'F' line and fixing survey stones for 31¼ cents of land and demarcate the same.

4. Though the aforementioned description of the property is little confusing, it is to be understood that both the Writ Petitions relate to the same property. In that particular Writ Petition, by an order, dated 22.09.2022, a learned Single Judge of this Court had directed survey to be done in accordance with the provisions of Tamil Nadu Survey and Boundaries Act and that such survey should be completed within a period of twelve weeks.



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5.The present Writ Petition has been filed seeking a restraint from conducting such survey. This relief cannot be granted primarily because this would be in direct violation of the order of another learned Single Judge. There must be some respect shown for the order of any Court. Therefore, the Mandamus as sought can never be issued.

6.It is also stated by the learned Counsel for the seventh respondent that a Writ Appeal has been filed as against the order in W.P. (MD)No.13284 of 2012. That is the proper procedure to be undertaken, but filing another Writ Petition seeking a negative relief to a relief, which had already been granted cannot be appreciated by this Court.

7.The Writ Petition stands dismissed. The petitioner may workout his remedy in manner known to law. No costs. Consequently, connected miscellaneous petition is closed.

Index :Yes / No
Internet :Yes
NCC : Yes/No
cmr

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C.V.KARTHIKEYAN, J.

cmr

Order made in
W.P.(MD)No.4759 of 2023

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