



W.P.(MD)No.5491 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.03.2023

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.(MD)No.5491 of 2023

Rajalakshmi

... Petitioner

Vs.

1. The Thasildar,
Taluk Office,
Vilathikulam,
Vilathikulam Taluk,
Thoothukudi District.

2. The Head Surveyor,
Taluk Office,
Vilathikulam Taluk,
Thoothukudi District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the respondents 1 and 2 to survey and mark four boundaries of the petitioner's land property along with house with an extent of 327.76 sq.ft., situated in Survey No.652/4, Pillayar Natham, Vilathikulam Taluk, Thoothukudi District based on the petitioner's representation dated 25.02.2023.



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For Petitioner : Mr.R.karunanidhi
For Respondents : Mr.D.S.Nedunchezian
Govt. Advocate for R1 and R2

ORDER

This Writ Petition has been filed in the nature of mandamus seeking a direction against the respondents 1 and 2 / the Tahsildar, Vilathikukam Taluk, in Thoothukudi District and the Head Surveyor, Taluk Office, Vilathikulam Taluk, Thoothukudi District, to survey and mark four boundaries of the property of the petitioner including house measuring 327.76 sq.ft. in S.No.652/4, Pillayar Natham, Vilathikulam Taluk, Thoothukudi District. The petitioner had given a representation on 25.02.2023.

2. In the affidavit filed in support of the Writ Petition, it had been stated that the petitioner owns the aforementioned property. Her mother, Paapathiyammal had executed a release deed in favour of the petitioner by registered Document No.2407/2011 on the file of Sub Registrar Office, Vilathikulam Taluk, Thoothukudi District, on 12.08.2011. The petitioner



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had also paid a sum of Rs.4,000/- for the survey at the time on 22.02.2023 for surveying the property. However, the second respondent had not done so.

3. It had been stated by the learned Government Advocate on behalf of the respondents that there appears to be a dispute between the petitioner and the brother of the petitioner herein.

4. It is stated that suits are pending. But even otherwise, my attention is drawn by the learned counsel for the petitioner to a judgment of the learned Single Judge of this Court in W.P.(MD)No.14036 of 2020, ***Vettaiyar vs. The Tahsildar, Ilayagudi Taluk, Sivagangai District and another***, wherein after examining all facts and circumstances, the learned Single Judge had stated as follows:

(iv) Pendency of litigation before Court is not a bar for the authorities to conduct survey or resurvey in the absence of any stay / interim order / interim injunction from proceeding further.



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5. In view of the said pronouncement, a direction is given to the first respondent to proceed further to survey the lands of the petitioner. In this connection, the first respondent may also issue notice to the brother of the petitioner herein and thereafter, if the property is identified, survey the lands. If there is a civil suit pending, the suit can only be for title and the measurement of the property be done after giving notice not only to the petitioner but also to the brother of the petitioner herein. If the first respondent is not inclined to do the survey, then, an order may be passed giving necessary reasons. But the judgment aforementioned can be kept in mind. Mere pendency of the suit without giving interim order is not a bar for conducting survey of the lands. A direction is therefore given. The entire exercise of surveying the land is to be completed within a period of six weeks from the date of receipt of a copy of this order.



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6. This Writ Petitions stands disposed of. There shall be no order as to costs.

27.03.2023

NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No

vji

To

1. The Thasildar,
Taluk Office,
Vilathikulam,
Vilathikulam Taluk,
Thoothukudi District.
2. The Head Surveyor,
Taluk Office,
Vilathikulam Taluk,
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