



W.P(MD)No.6476 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD)No.6476 of 2023

P.Selvam

... Petitioner

Vs.

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

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

3.The Sub Inspector of Police
Keelavalavu Police Station,
Keelavalavu,
Melur Taluk,
Madurai District.

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the first respondent



W.P(MD)No.6476 of 2023

to direct the second respondent to survey the petitioner's property in Patta Nos.1701 and 21 in Survey Nos.129/12A, 129/2B, 129/2C and 129/13A of Keelavalavu Village, Melur Taluk, Madurai District, along with police protection by the third respondent by considering the petitioner's application, dated 14.03.2023.

For Petitioner : Mr.S.Atham Ali

For Respondents : Mr.N.Muthu Vijayan - for R1 & R2
Special Government Pleader
Mr.RMS.Sethu Raman
Additional Public Prosecutor

ORDER

The writ petition has been filed in the nature of a Mandamus seeking a direction against the first respondent / Tahsildar, Melur Taluk, Madurai District, to survey the property of the petitioner in patta Nos.1701 and 21 in Survey Nos.129/12A, 129/12B, 129/12C and 129/13A at Keelavalavu Village, Melur Taluk, Madurai District. The petitioner had given an application on 14.03.2023 which is only about two weeks back.



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W.P(MD)No.6476 of 2023

2. In the affidavit filed in support of this writ petition, in paragraph No.4 the petitioner had stated as follows :

"4. I submit that in the said circumstance adjacent land owner of my property used my vacant land to throw their wastage and sometime they urinate in the property and it smells like hell. Some 3rd parties also encroached upon my property by lay fence in my property, on 10.03.2023 adjacent land owner try to construct building by encroaching my property while so I questioned the same and he gave one week time to survey my land otherwise he will put up construction in my property."

It is seen that the possession of the petitioner is being challenged by third persons whose names have not been given in the affidavit and who have not been shown as respondents in the cause title.

3. In view of these facts stated, let the first respondent / Tahsildar, take a prudent decision. He may take up the application, since the application has been filed and there is an obligation on him to



W.P(MD)No.6476 of 2023

conduct a survey but, if there are obstructions caused, then, it will only be appropriate that he withdraws himself and directs the parties to get a decree from the civil Court regarding title and possession. Let the third respondent not enter into the property or into the dispute at this particular stage. The petitioner may necessarily have to protect his possession and also declare his title and the competent procedure would only be to file a comprehensive suit in this regard.

4. Giving that particular direction, the writ petition stands disposed of. No costs. The first respondent may, in the first place examine and the conduct survey within a period of six weeks from the date of receipt of a copy of this order, but also keep in mind the directions issued by this Court if there are obstructions.

27.03.2023

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

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W.P(MD)No.6476 of 2023

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W.P(MD)No.6476 of 2023

C.V.KARTHIKEYAN, J.

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W.P(MD)No.6476 of 2023

27.03.2023