



W.P(MD)No.10239 of 2020

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.10239 of 2020

and

W.M.P.(MD)No.9129 of 2020

V.Vargheese

... Petitioner

Vs.

1.The District Collector,
Collectorate,
Kanniyakumari District.

2.The Superintendent of Police,
Kanniyakumari District.

3.The Tahsildar,
Thiruvattar Taluk,
Kanniyakumari District.

4.The Inspector of Police,
Thiruattar Police Station,
Kanniyakumari District.

5.The Taluk Surveyor,
Thiruvattar Taluk,
Kanniyakumari District.

6.V.Mohan Doss

7.Suseela

... Respondents



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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, 3 & 5 to survey the petitioner's property in Survey No.323/1C1 with an extent of 32 cents situated at Kannanur Village, Kanniyakumari District and consequently, directing the respondents 2 & 4 to provide adequate police protection for the same based on the petitioner's representation dated 02.07.2020 within a period that may be stipulated by this Court.

For Petitioner : Mr.J.Animesh

For Respondents : Mr.M.Siddharthan
Additional Government Pleader for R1, R3 & R5

: Mr.B.Thanga Aravindh
Government Advocate (Crl.side) for R2 & R4

: No appearance for R6 & R7

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.



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(II) Enquiry shall be held. During enquiry, objections raised by the adjacent land owners / interested persons shall be considered.

(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.



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(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. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Internet : Yes/ No
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To

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4.The Inspector of Police,
Thiruattar Police Station,
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5.The Taluk Surveyor,
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G.R.SWAMINATHAN, J.

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