



W.P(MD)No.12561 of 2021

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.12561 of 2021

Murugan

... Petitioner

Vs.

1.The Tahsildar,
Shekottai Taluk,
Tenkasi District.

2.The Taluk Surveyor,
Shenkottai Taluk,
Tenkasi District.

3.Ellarimuthu

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned proceedings of the first respondent in O.Mu.A2/230/2021, dated 20.01.2021 and quash the same as illegal and consequently, direct the respondents 1 & 2 to survey and demarcate the petitioner's property in Old S.No.3/14, New S.No.244/5B measuring 75 square feet situated in Pudur Village, Shenkottai Taluk, Tenkasi District, within a time frame fixed by this Court.



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For Petitioner : Mr.R.J.Karthick

For Respondents : Mr.A.K.Manikkam
Special Government Pleader for R1 & R2

ORDER

Heard the learned counsel appearing for the writ petitioner and the learned Special Government Pleader appearing for R1 & R2.

2. The third respondent has declined to receive the notice. The petitioner wants survey to be conducted for the petition mentioned land. The first respondent has informed the petitioner that survey cannot be conducted. Since the parties are at loggerheads, that can never be a ground for rejecting the petitioner's request. The first respondent is the statutory authority. The first respondent must consider rival objections and take a call on merits and in accordance with law and pass a speaking order. In all such matters, there will be a difference of opinion and lodging objections. The statutory objections must not be swayed by such considerations. The impugned memorandum dated 20.01.2022 is quashed. The petitioner is permitted to submit a fresh application for conducting survey. The Writ Petition shall be disposed of with the following directions:-



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(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.

(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



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jurisdictional civil Court for agitating his rights.

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(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 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.

01.03.2023

Index : Yes / No
Internet : Yes/ No
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To

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G.R.SWAMINATHAN, J.

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