



W.P.(MD)No.11836 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 12.05.2023

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.11836 of 2023
and
W.M.P.(MD)Nos.10241 and 10239 of 2023

1. Thangarasu

2. S.K.Mohanraj

3. Lakshmiammal

4. M.R.Venkatachalam

5. Thiruvelavan

6. Karunakaran

7. Saravanakumar

... Petitioners

versus

1. The Commissioner,
Tiruchirappalli Corporation,
Cantonment,
Tiruchirappalli.



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2. The Tahsildar,
Trichy West Taluk Office,
Cantonment,
Tiruchirappalli.

3. The Sub Inspector of Survey,
Ward Committee Office – IV,
Tiruchirappalli City Corporation,
Tiruchirappalli.

4. Kandasamy

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus, to call for the records in pertaining to the impugned order of the third respondent vide his proceedings Nil dated 27.03.2023 and quash the same as illegal consequently forbearing the third respondent from conducting survey in petitioners property comprised in survey numbers 5/1, 5/24, 5/25, 5/26, 5/27, 5/28, 5/29, 5/30, 5/31, 5/32 and 5/33 situated at Ward AC, K.Abisekapuram, Block 21, Ponmalai Zone, Trichy Corporation, Trichy West Taluk, Trichy District while pending adjudication regarding the validity of title deeds of the fourth respondent's in O.S.No.235 of 2019 on the file of the Second Additional District Munsif Court Trichy by considering representation dated 26.04.2023.

For Petitioners : Mr.T.Vadivelan
For R1 & R3 : Mr.Baskar,
Standing Counsel



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For R2 : Mr.S.Shanmugavel,
Additional Government Pleader

ORDER

Heard the learned counsel appearing for the writ petitioners and the learned Standing Counsel appearing for the first and third respondent and the learned Additional Government Pleader appearing for the second respondent.

2. One M.Kandasamy filed W.P.(MD)No.24382 of 2022 for conducting survey of the petition mentioned land that was disposed of on 24.02.2023 by issuing following directions:

“(I) 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 by a



speaking order. 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 on 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.

(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.”

3. The petitioners state that they are also interested parties in this matter and they have not been put on notice.

4. The order passed by this Court makes it clear that objection raised by all interested persons must be considered. The petitioners herein have given their objections to the Commissioner, Tiruchirappalli Corporation. A copy of the same has also been enclosed in the typed set of papers. The survey authority is obliged to hold an enquiry and consider the petitioners' objections. A speaking order has to be passed. If the petitioners' objections are rejected, the survey will not be conducted immediately. The petitioners have given breathing time of six weeks. During this window period, it is open to the petitioners herein to avail appropriate remedy as per law.



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WEB COPY 5. With this direction to the official respondents, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

12.05.2023

ogy/sji

NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.

To

The Tahsildar,
Trichy West Taluk Office,
Cantonment,
Tiruchirappalli.



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G.R.SWAMINATHAN, J.

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