



W.P.(MD)No.13994 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.11.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.13994 of 2021
and
W.M.P.(MD).No.10966 of 2021

Chellapandian

... Petitioner

Vs

1.The Thasildhar,
Singampunari Taluk,
Sivagangai District.

2.The Surveyor,
Singampunari Taluk,
Sivagangai District.

3.Muthuraman

4.Dhanalakshmi

5.Manikandan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, forbearing the respondents 1 and 2 from measuring/surveying the properties comprised in S.Nos.186/5, 6, 22, 10 187/12, 17, 30, 186/3, 187/10 to an extent of 31 cents, 20 cents, 9 cents, 8 cents, 36 cents, 17 cents, 10 cents, 20 cents, 20 cents, respectively, situated at A.Kalappur Village, Singampunari Taluk, Sivagangai District on the basis of the application presented by the respondents 3 to 5 which is the subject matter in O.S.No.119 of 2021 on the file of Subordinate Court, Sivagangai.



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W.P.(MD)No.13994 of 2021

For Petitioner : Mr.Shankar Ganesh

For R-1 & R-2 : Ms.D.Farjana Ghoushia,
Special Government Pleader

ORDER

This Writ Petition has been filed for the issue of writ of mandamus forbearing the first and second respondents from measuring / surveying the subject properties based on the application submitted by respondent Nos.3 to 5, pending the suit in O.S.No.119 of 2021 before the Subordinate Court, Sivagangai.

2. Heard the learned counsel appearing on behalf of the petitioner and the learned Special Government Pleader appearing on behalf of respondent Nos.1 and 2.

3. The grievance of the petitioner is that there is a substantial suit pending in O.S.No.119 of 2021 and in the meantime, the private respondents were taking steps to get the property measured / surveyed. Hence, the petitioner made objections to the first and second respondents through a representation dated 30.07.2021. Since the same was not acted upon, the present Writ Petition has been filed before this Court.

4. In the considered view of this Court, the substantial dispute between the parties is pending before a competent Civil Court. The Hon'ble



W.P.(MD)No.13994 of 2021

Apex Court has time and again held that the forum of the Writ Court cannot be used for the purpose of securing an interim order where the final relief is pending before the concerned forum. Useful reference can be made to the Judgment of the Hon'ble Apex Court in this regard in the case of ***Kalabharati Advertising Vs. Hemant Vimalnath Narichania and others*** reported in **(2010) 9 SCC 437**. This Judgment was subsequently followed by this Court in the case of ***A.J.K.Fernandez Vs. Secretary Finance, Reserve Bank of India and others*** reported in **2011 3 MLJ 523**.

5. If according to the petitioner, the private respondents are attempting to get the property measured / surveyed, the petitioner can always file an appropriate application in the pending suit and seek for a restraint. A Writ Court cannot be approached for this purpose. Except giving this liberty, no further orders can be passed in this Writ Petition.

6. This Writ Petition is disposed of with the above directions. No costs. Consequently, the connected miscellaneous petition is closed.

06.11.2023

NCC:yes/no
Index:yes/no
Internet:yes/no

<https://www.mhctn.gov.in/judis>



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W.P.(MD)No.13994 of 2021

N.ANAND VENKATESH, J.

tsg

To

1.The Thasildhar,
Singampunari Taluk,
Sivagangai District.

2.The Surveyor,
Singampunari Taluk,
Sivagangai District.

W.P.(MD)No.13994 of 2021

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