



W.P(MD)No.1022 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 09.08.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.1022 of 2015
and
M.P.(MD)Nos.1 and 2 of 2015

K.Thiyagarajan

... Petitioner

Vs.

1.The Tahsildar,
Madurai South Taluk,
Madurai.

2.D.Kanthammal

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned memorandum made in O.Mu.Athumaal No.14/14 dated 07.08.2014 passed by the 1st respondent and quash the same and consequently direct the 1st respondent to survey and demarcate the petitioner's property situated in R.S.No.104/1 measuring an extent of 1 Acre 24 cents bearing Patta No.631 situated at Virakanur Village, Madurai South Taluk, Madurai District within the time stipulated by this Court.

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For Petitioner : Mr.P.R.Prithiviraj,
For Mr.T.C.Thillainayagam.

For Respondents : Mr.D.Gandhiraj,
Spl. Government Pleader for R1.
Mr.P.T.S.Narendravasan for R2.

ORDER

Heard both sides.

2.The petitioner has submitted an application for conducting survey of the petition mentioned land. The petitioner's request was rejected by citing the objection of the second respondent. In the impugned order, it has been mentioned that civil suit is pending between the parties. Challenging the said memorandum dated 07.08.2014, the present writ petition came to be filed.

3.It is seen that no civil suit is pending. In any event, the Tahsildar could not have declined to conduct survey merely because some objection is received. An objection can be frivolous and without any basis. In that event, the objection should be overruled and survey



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conducted. If the objection is tenable, then the authority can call upon the claimants to move the jurisdictional civil Court. In any event, a speaking order must be passed. The impugned order fails on both the counts. The reasons set out in the impugned order are non-existent. The authority has not gone into the issue if the objection is tenable. On these twin grounds, the order impugned in this writ petition is set aside and the first respondent is directed to conduct survey of the petition mentioned land by complying the 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 accordingly. But the survey will be conducted only after a period of six weeks so that the objector can move the



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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.

(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.

(VII) A copy of the survey report will be served on the parties also.”



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4.This writ petition is disposed of accordingly. No costs.

Consequently, connected miscellaneous petitions are closed.

09.08.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:-

The Tahsildar,
Madurai South Taluk,
Madurai.



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G.R.SWAMINATHAN, J.

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