



W.P(MD)No.22366 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.01.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.22366 of 2022

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... Petitioner

Vs.

1.The Assistant Director,
O/o District Survey and Land Records,
Madurai District.

2.The Thasildhar,
Madurai North Taluk,
Madurai District.

3.The Taluk Surveyor,
Madurai North Taluk,
Madurai District.

4.R.Periyasamy

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 3rd respondent to survey the petitioner land, measuring 0.50.50 Ares in S.No.16/5A1A, in Chatira Thondamanpatti Village, Madurai North Taluk, by disposing his survey application dated 25.08.2022 within a time, be fixed by this Court.



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For Petitioner : Mr.R.Suriyanarayanan

For Respondents : Mr.B.Saravanan,
Addl. Government Pleader for R1 to R3.
Mrs.P.Jessi Jeeva Priya for R4.

ORDER

Heard the learned counsel on either side.

2.The writ petitioner wants this Court to direct the respondents to conduct survey and measurement of the petition mentioned property.

3.The learned counsel for the petitioner took me through the averments set out in the affidavit filed in support of the writ petition. He also took me through the materials enclosed in the typed set of papers. He pointed out that the petitioner had succeeded before the jurisdictional Civil Court and that the fourth respondent without even having wit of title or interest, he his unnecessarily opposing the writ prayer. He also would point out that having come to know about the filing of this writ petition, the fourth respondent filed vexatious suit before the jurisdictional Civil Court.



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4.The contentions of the writ petitioner are stirringly opposed by the learned counsel for the fourth respondent. The learned counsel took me through the pleadings projected by the fourth respondent.

5.I consciously refrain from going into the merits of the matter. Whenever a request for survey made, this Court disposes of the writ petition in the following terms:-

(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 concerned Court for injunction. If before the proposed date of survey, the objector is unable to obtain any injunction order, the survey can very



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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.



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6.The survey authority is directed to follow the very same approach in the present case also. After survey authority hands out his or her decision, the aggrieved party can move the jurisdictional Civil Court. Since a suit has been filed by the fourth respondent against the writ petitioner and it is also pending before the jurisdictional Civil Court, in the said pending suit, the aggrieved party can file an interlocutory application and based on the said interlocutory application, the survey authority will take further action.

7.The writ petition is disposed of accordingly. No costs.

27.01.2023

NCS : Yes / No
Index : Yes / No
Internet : Yes / No
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G.R.SWAMINATHAN, J.

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