



W.A.(MD) No.1806 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: **13.10.2023**

CORAM

THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM**
AND
THE HONOURABLE **MR.JUSTICE V.LAKSHMINARAYANAN**

W.A.(MD) No.1806 of 2023
and C.M.P.(MD) No.13789 of 2023

Vijayakumar

... Appellant/Petitioner

-Vs.-

1.The Tahsildar,
Usilampatti Taluk,
Madurai District.

2.The Sub Inspector of Police,
Elumalai Police Station,
Madurai District.

3.Rathinavalli

4.Elangovan

5.Jeyamani

... Respondents/Respondents

PRAYER:- Writ Appeal filed under Clause 15 of Letters Patent Act, to set aside the order dated 11.07.2023 made in W.P.(MD)No.16620 of 2023 on the file of this Court.

For Appellants : Mr.D.Malaichamy



W.A.(MD) No.1806 of 2023

For Respondents : Mr.T.Amjadkhan
Government Advocate
For R1 and R2

J U D G M E N T

(Judgment of the Court was delivered by **S.M.SUBRAMANIAM, J.**)

The present intra-Court appeal has been instituted against the order dated 11.07.2023, passed in W.P.(MD)No.16620 of 2023

2. Admittedly, the appellant before us preferred an application before the Revenue Tahsildar to conduct survey of the land in Survey No. 105/15, situated at Jothilnayakanur Village, Usilampatti Taluk, Madurai District. Since the application was not considered nor survey conducted, the appellant was constrained to move a Writ Proceedings.

3. Learned Single Judge issued a direction to the appellant / writ petitioner to produce relevant documents during enquiry. The Tahsilar was further directed to pass appropriate order either to measure the land or to reject the claim of the petitioner within a period of 12 weeks from the date of receipt of a copy of that order.



W.A.(MD) No.1806 of 2023

4. Under the Tamil Nadu Survey and Boundaries Act, 1923, the

Survey Officer shall determine the boundaries by conducting survey. However, survey is to be conducted, if there is no disputed issues between the parties. In other words, if there is any objections from any person to conduct survey on the ground of title, ownership etc., then the Government Surveyor cannot conduct survey nor determine title or ownership. The authorities competent, in such circumstances, are bound to relegate the parties to approach the civil Court of Law for the purpose of resolving the disputed facts. The power of civil Court cannot be usurped by the revenue authorities or the Government Surveyor. Under the Act, if the Surveyor conduct survey or refuse to conduct survey an appeal may be preferred and finally Section 14 contemplates filing of a civil suit before the competent civil Court. Thus, the scheme of the Act itself contemplates, in the event of any grievance against the order of the original authority or the appellate authority, the civil Court alone is competent to decide the issues.

5. The Tamil Nadu Survey and Boundaries Act, 1923 was enacted in the year 1923 and during that point of time, the boundaries were not properly fixed and the Act was enforced for the purpose of



W.A.(MD) No.1806 of 2023

settling the boundaries. 100 years lapsed from the date of enactment of Survey and Boundaries Act. Now, the Act is pressed into service only for the purpose of maintenance of revenue records, wherever sub-divisions occurs and for fixation of boundaries. Therefore, the provisions of the Act cannot be utilised for the purpose of resolving the civil dispute between the parties. Forcible conduct of survey is also impermissible and in the event of a dispute Section 9 of the Act provides power to the Survey Officer to determine and record an undisputed boundary.

6. Sub-section (1) to Section 10 states that “where a boundary is disputed, the survey officer, after making such inquiry as he considers necessary, shall determine the boundary and record it in accordance with his decision. The survey officer shall record in writing the reasons for his decision.” The power conferred on the Survey Officer to conduct survey in respect of the disputed lands cannot be expanded for the purpose of determining disputes of civil nature including title, ownership etc. More so, such issues cannot be determined by way of summary procedures and it is to be decided only by the competent civil Court of Law. Thus, Section 10 of the Act cannot be misconstrued for conferring power to Survey Officer to resolve the disputes of civil nature or to reject the



W.A.(MD) No.1806 of 2023

application by considering title, ownership or otherwise. Therefore, the spirit of Section 10 is to be restricted only to the extent of verification of documents for conducting survey for fixation of boundaries and not to resolve the title dispute or boundary dispute between the parties. In other words, power of civil Court cannot be usurped by the Survey Officer under the provisions of the Act.

7. In view of the above principles and the scope of the Survey and Boundaries Act, we find that the power conferred on the Survey Officer to reject the claim of the appellant by the learned Single Judge is beyond the jurisdiction conferred on the Survey Officer under the Survey and Boundaries Act. Thus, we are inclined to allow the Writ Appeal only insofar the directions issued to the first respondent to reject the claim of the appellant, if the survey officer finds any grounds to do so. Such a power has not been conferred.

8. Accordingly, the order dated 11.07.2023 passed in W.P.(MD) No.16620 of 2023 is set aside. The first respondent Tahsildar, Usilampatti, is directed to consider the application of the appellant under the provisions of the Survey and Boundaries Act and taking note of



W.A.(MD) No.1806 of 2023

observations made by us in the present order. It is made clear that in the event of any title dispute or disputes of civil nature, parties are to be relegated to approach the civil Court.

9. Accordingly, the Writ Appeal stands allowed. No costs.

Consequently, connected Civil Miscellaneous Petition is closed.

[S.M.S.J.,] & [V.L.N.J.,]
13.10.2023

NCC :Yes/No
Index :Yes/No
SJ

To

- 1.The Tahsildar,
Usilampatti Taluk,
Madurai District.
- 2.The Sub Inspector of Police,
Elumalai Police Station,
Madurai District.



WEB COPY



W.A.(MD) No.1806 of 2023

S.M.SUBRAMANIAM, J.
AND
V. LAKSHMINARAYANAN, J.

SJ

W.A.(MD) No.1806 of 2023

13.10.2023