



W.P(MD)No.24096 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 04.10.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.24096 of 2023

and

W.M.P(MD)No.20268 of 2023

Shanmugam

... Petitioner

Vs.

- 1.The District Collector,
Office of the Colletorate Building,
Sivagangai District.
- 2.The District Revenue Office,
Office of the District Revenue,
Colletorate Building,
Sivagangai District.
- 3.The Revenue Divisional Officer,
Office of the Revenue Divisional,
Colletorate Building,
Sivagangai District.
- 4.The Tahsildar,
Office of the Tahsildar,
Manamadurai,
Sivagangai District.



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5.Sivakumar

... Respondents

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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, forbearing the respondents 1 to 4 to survey the land in connection with Survey No. 292/16, to an extent of 1 1/4 cents situated at Vellikurichi, Manamadurai Taluk, Sivagangai District based on the connected issues pending before the District Munsif, Manamadurai in O.S.No.20 of 2023.

For Petitioner : Mr.D.S.Haroon Rasheed

For Respondents : Mr.C.Satheesh
Government Advocate
for R.1 to R.4

ORDER

Heard the learned counsel appearing for the writ petitioner and the learned Government Advocate appearing for the official respondents. Considering the nature of relief to be granted, issuance of notice to the private respondent is dispensed with.

2. The fifth respondent herein filed W.P(MD)No.18111 of 2023 for conducting survey of the property mentioned therein. The writ petition was disposed of on 27.07.2023 in the following terms:



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“4.Recording the submissions made by the learned Additional Government Pleader that the application of the petitioner is under process, this writ petition is disposed of with a direction to the respondents to conduct an enquiry as per Section 10(1) of the Tamil Nadu Survey and Boundaries Act, 1923 and thereafter proceed with the survey depending upon the outcome of the enquiry. Such exercise shall be concluded within a period of twelve weeks from the date of receipt of a copy of this order. No costs.”

Pursuant to the said direction, the survey officials issued notice to the petitioner herein. To forbear the authorities from conducting survey, the present writ petition came to be filed.

3. The present writ petition is not maintainable for two reasons. The impugned survey is proposed to be conducted only pursuant to the direction of this Court. It is true that the petitioner was not heard before direction was issued in the earlier writ petition. But then the petitioner cannot claim that he has been prejudiced. The order dated 27.07.2023 protects the rights of the petitioner. It clearly states that the petitioner herein will have to be heard. It has not peremptorily ordered conducting



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of survey. It states that survey will be conducted based on the outcome of the enquiry to which the petitioner will be a party.

4. In any event to take care of the petitioner's interest, I add one more direction. The fourth respondent will pass a speaking order by considering the petitioner's objections. Copy of the same will be served on the petitioner. Survey will not be conducted immediately thereafter. Six weeks breathing time will be given so as to enable the petitioner to challenge if any adverse order is passed. If the petitioner's objections are sustained, the survey will be dropped and the petitioner will not have any cause of action to complain.

5. With this direction to the fourth respondent, this writ petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

04.10.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
MGA

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Note: Issue order copy on 05.10.2023.

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G.R.SWAMINATHAN, J.

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