



W.P(MD)No.24311 of 2023

**BEFORE THE MADURAI BENCH OF MADRAS HIGH
COURT**

DATED : 06.10.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.24311 of 2023

P. Sagunthalai

... Petitioner

Vs.

1. The Tahsildar,
O/o.The Tahsildar,
Madurai West Taluk,
Nagamalai Pudukottai,
Madurai District.
2. The Head Surveyor,
Madurai West Taluk,
Nagamalai Pudukottai,
Madurai District.
3. The Surveyor,
Madurai West Taluk,
Nagamalai Pudukottai,
Madurai District.
4. The Village Assistant Officer,
Madurai West Taluk,
Vadivelkarai Village,
Nagamalai Pudukottai,
Madurai District – 625 019.
5. The Inspector of Police,
Nagamalai Pudukottai police station,
Madurai District.

... 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, directing the respondents 1 to 3 survey by measuring and demarcate the four boundaries of the petitioner's land in Survey No.5/4A of 1305 sq.feet and the patta no. (1957) situated at Vadivelkarai Village, Nagamalai Pudukkottai, Madurai West Taluk, Madurai District based on the petitioner's representation dated 23.08.2023.

For Petitioner : Mr.A.Prasanna Rajadurai

For R-1 to R-4 : Mr.C.Satheesh

For R-5 : Mr.A.Albert James,
Government Advocate.

* * *

ORDER

The petitioner has applied to the jurisdictional authority for conducting survey of the petition mentioned lands and for demarcation of the boundaries. Since the authority had not acted upon the petitioner's request, this writ petition came to be filed.

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2. At the instance of the Court, the petitioner not presses the second part of the prayer. The said remedy is left open. The petitioner can even file a fresh writ petition or suit on the said cause action pertaining to the pathway. The scope of this writ petition is confined only to survey alone.

3.This writ petition is disposed of at the admission stage itself. It is open to any aggrieved party to move this Court either by way of review or recall of this order, if there is any suppression of material facts by the petitioner.

4.The Writ Petition is disposed of with the following directions:-

(I) The survey authority will scrutinize if the application submitted by the petitioner is in order.

(II) The petitioner will have to enclose all the relevant documents such as patta. If the petitioner is having only a joint patta, he must get consent from co-pattadors for conducting survey.



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(III) 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.

(IV) Enquiry shall be held. During enquiry, objections raised by the adjacent land owners / interested persons shall be considered.

(V) 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 well go on.

(VI) It is open to the parties to serve memo of instructions to the surveyor at the time of conducting survey. The same will be borne in mind. While it cannot be binding on the surveyor, the same will be taken note of.



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(VII) 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.

(VIII) If required, the survey authority is empowered to seek aid of the jurisdictional police and the jurisdictional police are mandated to grant police protection.

(IX) 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.

(X) The survey authority will conclude the entire exercise one way or the other within a period of six weeks after service of notice on the interested persons.



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(XI) A copy of the survey report along with
WEB COPY sketch will be served on the parties. No costs.

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NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
PMU

To:-

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