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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.11.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

**WP(MD)No.26346 of 2023
and
WMP(MD)No.22679 of 2023**

M.Vadamalai

... Petitioner

VS.

1.The Tahsildar,
Musiri Taluk, Trichy District.

2.The Head Surveyor,
Musiri Taluk, Trichy District.

3.The Firka Surveyor,
Musiri Firka, Trichy District.

4.The Village Administrative Officer,
Sevanthilingapuram Village,
Musiri Taluk, Trichy District.

5.K.Ramesh

6.Revathi

... Respondents



Prayer : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the respondents No.1 to 4 from conducting survey and laying boundary stone in Old S.F No.142, New S.F No. 336/4 of Sundakai Village now Sevanthilingapuram Village, Musiri Taluk, Trichy District pending civil suit in O.S No.99 of 2023 on the file of the Principal District Munsif Court, Musiri.

For petitioner : Mr.A.N.Ramanathan
For Respondents : Mr.M.Sidharthan,
Addl Government Pleader for R1 to R4

Mr.Joel Paul Antony for R5

ORDER

Heard both sides.

2.The petitioner wants the official respondents not to conduct survey. Such a prayer cannot be maintained. This is because in WP(MD)No.21257 of 2023 filed by the fifth respondent herein, the following order was passed on 31.08.2023 :

“3.In view of the above submission, this writ petition stands disposed of, with a direction to the first respondent / Tahsildar to consider the petitioner's representation dated



20.06.2023 and to take a decision, on merits and in accordance with law, after affording due opportunity of hearing to the parties concerned, as per the Survey and Boundaries Act within a period of eight weeks from the date of receipt of a copy of this order.”

3.However, the rights of the petitioner cannot be lost sight of. The survey authority is directed to adhere to the following directions :

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

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

(III) The survey authority will issue notice to the writ applicant 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



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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.

(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.



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(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.

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

03.11.2023

Index : Yes / No
Internet : Yes/ No
skm

Issue order copy on 07.11.2023

To

- 1.The Tahsildar, Musiri Taluk, Trichy District.
- 2.The Head Surveyor, Musiri Taluk, Trichy District.
- 3.The Firka Surveyor, Musiri Firka, Trichy District.
- 4.The Village Administrative Officer, Sevanthilingapuram Village,
Musiri Taluk, Trichy District.



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G.R.SWAMINATHAN, J.

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