



W.P(MD)No.27036 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 10.11.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.27036 of 2023

Elango

... Petitioner

Vs.

1.The Tahsildar,
Taluk Office,
Orathanadu & Taluk,
Thanjavur District.

2.The Firka Surveyor,
Orathanadu & Taluk,
Thanjavur District.

3.The Village Administrative Officer,
Orathanadu Taluk,
Thanjavur District.

4.S.Ramesh

... Respondents

*(R4 is suo motu impleaded vide order dated
10.11.2023 in W.P.(MD)No.27036 of 2023)*

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to consider the petitioner's representation dated 10.10.2023 to fix the boundary of subject property in Survey No.66/5A measuring



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western 2 acre 33 1/3 cents out of 3 acres and 6 cents comprised in the petitioner's Sale Deed dated 14.02.2022 at Akkaraivattam village, Orathanadu taluk, Thanjavur District.

For Petitioner : Mr.N.Balakrishnan

For Respondents : Mr.S.RA.Ramachandran,
Addl. Government Pleader for R1 to R3.
Mr.A.R.Kannappan for R4.

ORDER

Mr.A.R.Kannappan, learned counsel intervenes on behalf of the fourth respondent. The learned counsel for the impleaded fourth respondent submits that two civil suits have already been filed and that they are still pending in respect of the very same subject matter. He would allege that the petitioner is staking his claim on the strength of a fraudulent sale deed. According to him, the prayer sought for by the petitioner cannot be granted.

2.The contention of the learned counsel for the impleaded fourth respondent might as well be well founded. But then, the Writ Court need



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not be burdened with adjudicating such issues at the threshold stage. The jurisdictional Tahsildar can very well take a call in the first instance. In the template orders passed by this Court, it has been categorically held that all the interested parties must be put on notice before conducting survey. Objections must be invited. The Tahsildar will have to pass a speaking order on the objections. If the objections are overruled, survey cannot be conducted immediately. Six weeks breathing time will have to be given to the objector so that the objector can go before the concerned Court for getting relief. I have been making it clear that only if no interim order could be obtained during the window period, survey can go on. Even if survey is conducted, there cannot be any dispossession and fencing cannot be put by using police aid. Four boundaries alone can be earmarked. When such elaborate safeguards have been put in place in the template order, I fail to understand the needless excitement shown by the learned counsel for the impleaded fourth respondent.

3.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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4.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.

5.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.

(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.



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(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.

(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



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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.

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

10.11.2023

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

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