



W.P(MD)No.27541 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 21.11.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.27541 of 2023

and

W.M.P.(MD)No.23641 of 2023

S.Joseph

... Petitioner

Vs.

1.The District Collector,
District Collectorate,
Tiruchirapalli District,
Tiruchirapalli.

2.The Revenue Divisional Officer,
Revenue Divisional Office,
Lalgudi Post and Taluk,
Tiruchirapalli District.

3.The Tahsildar,
Taluk Office,
Lalgudi Taluk,
Tiruchirapalli District.

4.The Taluk Surveyor,
Lalgudi Taluk,
Tiruchirapalli District.

5.M.Arokiyasami

... 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 3rd and 4th respondents herein from conducting the survey in respect of property comprising in Old Survey No.166/1, New Survey No.274/7 of an extent of 00381 sq metres (4101.05 sq.feet) which is situated at Ariyur Village, Lalgudi Taluk, Trichy District based on the connected issues pending before the Additional District Munsif, Lalgudi in O.S. No. 20/2021.

For Petitioner : Mr.C.Adul Kalam Azad

For Respondents : Mr.M.Prakash,
Addl. Government Pleader for R1 to R4.

ORDER

Heard the learned counsel for the writ petitioner and the learned Additional Government Pleader for the respondents 1 to 4. Issuance of notice to the fifth respondent is dispensed with.

2.The fifth respondent had applied to the authorities for conducting survey. The authority is proposing to do that. The petitioner wants this Court to restrain the authorities from doing so. The stand of the petitioner is that when he applied for conducting survey, the authorities



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though measured the property, failed to give any survey report or survey sketch. Thereafter, the fifth respondent filed a civil suit. The suit is still pending. The learned counsel for the petitioner would argue that when the authorities are declining to conduct a proper survey and issue survey report and survey sketch for the petitioner's property, they cannot adopt different yardstick in the case of the fifth respondent.

3.The learned counsel for the petitioner would claim that even though the objection has been lodged by the petitioner, it has not been disposed of till date.

4.I decline to go into the merits of the matter only for the reason that the writ petition has been filed prematurely. A statutory authority cannot be prevented from exercising his statutory functions. Whenever petitions are filed for conducting survey, they are disposed of in the following terms:-

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



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(II) The petitioner will have to enclose all the relevant documents such as patta. The applicant must have individual patta in his / her name. If he / she is having joint patta, co-pattadars must given their consent 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.

(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.



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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.

(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.



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5.The survey authority while considering the application of the fifth respondent will adhere to the norms set out above.

6.This writ petition is disposed of accordingly. No costs.
Consequently, connected miscellaneous petition is closed.

21.11.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:-

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