



W.P(MD)No.28849 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 07.12.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.28849 of 2023

and

W.M.P.(MD)No.24894 of 2023

Shanmugam

... Petitioner

Vs.

1.The District Collector,
Office of the Collectorate Building,
Sivagangai District.

2.The Revenue Divisional Officer,
Office of the the Revenue Divisional,
Collectorate Building,
Sivagangai District.

3.The Tahsildar,
Office of the Tahsildar,
Manamadurai,
Sivagangai District.

4.Sivakumar

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the 3rd respondent in Na.Ka.No. A11/389/2023 dated 22.11.2023 and quash



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the same consequently forbearing the respondents from survey the land in Survey No.292/16, to an extent of 1 ¼ cents situated at Vellikurichi, Manamadurai Taluk, Sivagangai District till deciding the issues connected in I.A.No.2 of 2023 in O.S.No. 20 of 2023 pending before the District Munsif, Manamadurai.

For Petitioner : Mr.D.S.Haroon Rasheed

For Respondents : Mr.M.Prakash,
Addl. Government Pleader for R1 to R3.

ORDER

Heard the learned counsel for the writ petitioner and the learned Additional Government Pleader for the respondents 1 to 3.

2.The fourth respondent herein filed W.P.(MD)No.18111 of 2023 for conducting survey. The writ petition was disposed of on 27.07.2023. Apprehending that some adverse development may take place, the petitioner herein filed W.P.(MD)No.24096 of 2023. The said writ petition was disposed of by me in the following terms:-



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“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.”

3. When I had specifically directed that if the petitioner's objections are overruled, survey will not be conducted immediately and that six weeks breathing time should be given. The petitioner is said to have filed a suit for permanent injunction. He has also filed an interlocutory application. Therefore, the Tahsildar, Manamadurai shall wait for six weeks from 22.11.2023. If during the intervening period, the petitioner is unable to get interim order in his favour from the jurisdictional Civil Court, survey will be conducted and not otherwise. The petitioner in my view need not have any cause for worry because the outcome of survey exercise cannot



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lead to anybody's dispossession. No fencing can be put up. At best, the boundary stones will be installed. Four boundaries will be earmarked and nothing else. The petitioner also will be entitled to a copy of the survey report and survey sketch.

4. Granting liberty to the petitioner to pursue his remedy in the pending civil suit and directing the third respondent to wait for six weeks with effect from 22.11.2023, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

07.12.2023

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

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