



W.P(MD)No.28861 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.12.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.28861 of 2023

J.Elangovan

... Petitioner

Vs.

1.The Tahsildar,
Sivakasi Taluk,
Virudhunagar District.

2.The Inspector of Police,
Thiruthangal Police Station,
Virudhunagar District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the Respondent No.1 to survey the land in old Survey No.808/1D2, New Survey no.808/45 situated in Thiruthangal Village, Sivakasi Taluk, Virudhunagar District under Sec. 9 and 10 of the Tamil Nadu Survey and Boundaries Act, 1923 and consequently directing the 2nd Respondent to give Police Protection on the day of Surveying the land of the Petitioner, within a time that may be stipulated by this Court.

For Petitioner : Mr.E.Mareeskumar

For Respondents : Mr.M.Siddharthan
Additional Government Pleader for R1

: Mr.A.Albert James
Government Advocate for R2



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ORDER

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Heard both sides.

2. When the matter was taken up for hearing, the learned Additional Government Pleader submitted that the petitioner is yet to submit any formal application for conducting survey. It is seen that the petitioner had remitted a sum of Rs.800/-. He is therefore permitted to submit a fresh application before the first respondent by enclosing the proof of remittance.

3. 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. 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



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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 survey and demarcation undertaken pursuant to the direction of this Court can never result in dispossession of any party. No person shall put up



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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.

06.12.2023

Index : Yes / No
Internet : Yes/ No
rmi

To

1.The Tahsildar,
Sivakasi Taluk,
Virudhunagar District.

2.The Inspector of Police,
Thiruthangal Police Station,
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G.R.SWAMINATHAN, J.

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