



W.A.No.2873 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2024

CORAM:

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR
AND
THE HON'BLE MR.JUSTICE K.KUMARESH BABU

W.A.No.2873 of 2023 and
C.M.P.No.23884 of 2024

D.Kannammal

... Petitioner/Appellant

-VS-

1. The District Collector,
Erode District, Erode.
2. The Tahsildar,
Perundurai Taluk,
Perundurai, Erode District.
3. The Block Development Officer,
Perundurai Panchayat Union,
Perundurai, Erode District.
4. The President,
Sirukalanji Village Panchayat,
Perundurai Taluk, Erode District.

... Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 31.08.2023 passed in W.P.No.21545 of 2023.

For Appellant : Mr.J.Pothiraj

For R1 to R3 : Mr.V.Manoharan
Addl. Govt. Pleader

For R4 : No Appearance



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W.A.No.21545 of 2023

J U D G M E N T

(By D.Krishnakumar,J.)

This Writ Appeal has been filed, challenging the order dated 31.08.2023 of the learned Single Judge in W.P.No.21545 of 2023, in which, the request of the Writ Petitioner to survey her land was rejected with an observation that she had to approach the Civil Court to establish her right.

2. It is the case of the Writ Petitioner/Appellant herein that she had made an application to the respondents for survey of the land in S.Nos.341/3,4,5,6,7,8,9 and 10 in Eleapalanikadu, Sirukalanji Village, Perundurai Taluk and the property in question is in possession of her legal heirs. It is further case of the appellant that some of the villagers, who are adjacent to the petitioner's land, made objection to conduct survey on the property and therefore, the Officials have not conducted the survey. The request of the appellant was negatived by the Writ Court, by granting liberty to her to approach the Civil Court. It is also the case of the appellant that there is no dispute over the title of the property, as the dispute raised by the Villagers was in respect of providing pathway in that locality. Therefore, the order of the learned Single Judge warrants interference by this Court on the reason that driving the appellant to the Civil Court will not serve any purpose. It is stated by the appellant that the Civil Suit filed in O.S.No.36 of 2023



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before the District Munsif, Perundurai for mandatory injunction was dismissed as not pressed on 13.07.2023 and as such, there is no Civil Suit pending as of now.

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3. Learned Additional Government Pleader appearing for R1 to R3 contended that since there was a hue and cry amongst villagers in respect of survey of the property and objection was raised with regard to the pathway right, the remedy lies to the appellant only before the Civil Court, as rightly held by the learned Single Judge. It is further contended that however, the respondents are prepared to adhere to the orders to be passed by this Court in this Writ Appeal.

4. It is seen that the claim of the appellant is to survey the entire subject matter of the property to the extent of 6 acres comprised in S.Nos.341/3,4,5,6,7,8,9 and 10 after remitting necessary charges. According to the appellant, there cannot be any serious objection for surveying the property, as the title vests with the appellant in the capacity as owner of the property.

5. Supposedly, after survey of the property, if there is any attempt made by the appellant for fencing the property, for which objection is raised by the Villagers, then the aggrieved parties may approach the appropriate forum for redressal of their grievances and relief sought before this Court is only a direction to survey the land.



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6. In view of what is stated herein-above, the 2nd respondent herein is directed to depute a Taluk Surveyor to survey/measure the property in question based on the application dated 06.04.2023 of the appellant within a period of twelve weeks from the date of receipt of a copy of this judgment. It is made clear that if any opposition is made by the villagers, the 2nd respondent shall advise the parties concerned to approach the Civil Court for their remedy. It is needless to mention here that the 2nd respondent shall serve notice to all the parties concerned and thereafter, the property shall be surveyed.

7. With the above direction, this Writ Appeal is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

[D.K.K., J.,]

[K.B., J]

11.07.2024

Index: Yes / No

Internet: Yes / No

Speaking Order/Non Speaking Order

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To:

1. The District Collector,
Erode District, Erode.
2. The Tahsildar,
Perundurai Taluk,
Perundurai, Erode District.
3. The Block Development Officer,
Perundurai Panchayat Union,
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