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W.P.No.34581 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2024

CORAM

THE HON'BLE **MS.JUSTICE P.T.ASHA**

W.P.No.34581 of 2024

and

W.M.P.No.37505 of 2024

Sivagami

... Petitioner

Vs.

1. The District Collector,
Office of the District Collector,
Dharmapuri District,
Dharmapuri.

2. The Thasildar,
Office of the Thasildar,
Nallampalli,
Dharmapuri.

3. The Head Surveyor,
Nallampalli Taluk,
Dharmapuri.

4. Subramani

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorari to call for the records pertaining to the proceeding/Notice in Na.Ka.No.2077/2024/E1 dated 08.11.2024 on the file of the 2nd Respondent and quash the same as illegal.



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For Petitioner : Mr.S.Sivagurunathan
For R1 to R3 : Mr.A.Selvendran
Special Government Pleader

ORDER

Mr.A.Selvendran, learned Special Government Pleader takes notice on behalf of the Respondents 1 to 3.

2. This Writ Petition has been filed for a Certiorari to call for the records pertaining to the proceeding/Notice in Na.Ka.No.2077/2024/E1 dated 08.11.2024 on the file of the 2nd Respondent and quash the same as illegal.

3. Challenging the notice dated 08.11.2024 issued by the 2nd Respondent for surveying the land in Survey Nos.534/6, 538/2 and 501/A 13, the Petitioner is before this Court. The Petitioner would submit that the property comprised in the aforesaid survey numbers belonged to the Petitioner's father namely Buyrichetti. The said Buyrichetti died intestate on 20.05.2017, leaving behind the Petitioner and her sister as his legal heirs and they have been in possession and enjoyment of the property. However, the Petitioner's brother with an intent to take away the share of the Petitioner and her sister started threatening the Petitioner by stating that he had already sold the property and that he would sell the other properties as well. Therefore, the



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Petitioner has filed O.S.No.174 of 2024 for partition against Krishnamoorthy and 10 others.

4. The 4th Respondent herein who is arrayed as the 4th Defendant in the said Suit had purchased the property from the petitioner's brother and he had taken out an application before the 2nd Respondent for surveying the land on the strength of the Order passed by this Court in W.P.No.16629 of 2024 dated 26.06.2024. Pursuant to the Order of this Court, the 2nd Respondent had attempted to survey the property at which point of time the Petitioner had informed him about the pendency of the Suit and requested him not to proceed with the survey. The Petitioner had also filed a Writ Petition in W.P.No.30402 of 2024 directing the 2nd Respondent to consider the petitioner's representation dated 13.09.2024. This representation was disposed of vide Order dated 17.10.2024 taking note of the fact that a survey had been conducted pursuant to the Order of this Court in W.P.No.16629 of 2024 and therefore, it was clarified that the survey conducted would not affect the Petitioner in the Civil Suit. Therefore, by conducting the survey, the Respondents had complied with the earlier order passed in W.P.No.16629 of 2024, however the Petitioner has now received the Impugned Notice which is challenged in the present Writ Petition.



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5. Heard the learned counsel on either side.

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6. Taking note of the fact that the earlier Order directing the survey had been complied with the Respondents has not been able to state as to how a second survey is sought to be done for the very same property. The Writ Petition had been disposed of taking note of the fact that the survey had already been conducted. It is also seen that the Petitioner has filed a Suit for partition until the Suit is disposed of, there cannot be a survey, subdivision or demarcation of the property.

7. Therefore, the Writ Petition is allowed. Accordingly, the Impugned Notice dated 08.11.2024 is set aside. It is also made clear that no survey, sub-division or demarcation of the property shall be conducted till the disposal of the Suit in O.S.No.174 of 2024. No costs. Consequently, connected Miscellaneous Petition is closed.

19.11.2024

Index : Yes/No
Speaking/Non-speaking Order
Neutral Citation : Yes/No
rgm



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