



W.P.No.36137 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.12.2024

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.36137 of 2024

&

W.M.P.No. 39024 of 2024

R.Narayanan

...Petitioner

Vs.

1.The District Collector
Collectorate,
Erode- 638 011,
Erode District.

2.The Revenue Tahsildar
Gobichettipalayam Taluk,
Erode District.

3.The Kanakkampalayam Village
Panchayat Rep by its President,
Kanakkampalayam- 638 505,
Gobichettipalayam Taluk,
Erode District.



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4.The Village Administrative Officer
Kanakampalayam Village,
Gobichettipalayam Taluk,
Erode District.

5.The Block Development Officer
TN Palayam Panchayat Union,
Thookanaickenpalayam- 638 506,
Gobichettipalayam Taluk,
Erode District.

...Respondents

Prayer: Writ Petition is filed under Article 226 to issue a Writ of Mandamus forbearing the respondents from infringing petitioner right to property measuring an extent of 1.22.0 hectares in S.F. Nos.246/ 1 and also 0.20.80 hec., in S.F.No.247/4A2 (Pt), Kanakkampalayam Village, Gobichettipalayam Taluk, Erode District, until they conduct survey strictly in compliance with Sections 5 and 6 of the TN Survey and Boundaries Act, 1923, by considering petitioner's representations dated 06.11.2024, 11.11.2024 and 18.11.2024.

For Petitioner : Mr. N.Manoharan

For Respondents : Mr. A.Selvendran
Special Government Pleader.



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ORDER

It is the case of the petitioner that on 25.06.2009, he purchased the property measuring an extent of 1.22.0 hectares bearing S.F.No.246/1, Kanakkampalayam Village, Gobi Taluk, Erode District. On 24.10.2018, he had purchased another extent of 0.20.80 hectares comprised in S.F.No.247/4A2, Kanakkampalayam Village.

2. It is the contention of the petitioner that there is a pucca cart track in the Government lands in S.F.No.106 on the North of his land in S.F.No.246/1 and East of S.F.No.247/4A2. The said cart track branches from the west of the North - South Kanakkampalayam Village to Sundakaradu Road and runs west through S.F.Nos.116, 109, 107, 106 and turns right at the corner of the petitioner's land and runs north in S.F.No.104 and ultimately ends at S.F.No.103. This cart track has been there from time immemorial. The breadth of the cart track is about 10 meters. The respondents have laid a tar road to an extent of 3



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meters.

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3. On 05.11.2024, in the evening the petitioner was shocked to note that respondents 3 and 4 along with private surveyors started measuring the cart track and they attempted to enter into the petitioner's land and make markings in the inner and outer compound wall and also placed boundary stones. No survey notice was issued to the petitioner and the respondents 3 and 4 cannot engage private surveyors.

4. The petitioner is aggrieved by the fact that the procedure under Section 5 and 6 of the Tamil Nadu Survey and Boundaries Act had not been followed in as much as no notice had been given prior to the survey. Therefore aggrieved, the petitioner has come forward with the Writ Petition for the following relief:

“Forbearing the respondents from infringing the petitioner's right to property measuring an extent of 1.22.0 hectares in S.F. Nos.246/ 1 and also 0.20.80 hec., in S.F.No.247/4A2 (Pt), Kanakkampalayam Village,



Gobichettipalayam Taluk, Erode District, until they conduct survey strictly in compliance with Sections 5 and 6 of the TN Survey and Boundaries Act, 1923, by considering petitioner's representations dated 06.11.2024, 11.11.2024 and 18.11.2024”

5. The 5th respondent has filed a counter affidavit, wherein, he had denied the allegations made by the petitioner that he is the brain behind the entire episode. The allegation that private surveyors had conducted survey was totally denied and the 5th respondent would submit that the survey was conducted by the Government Surveyors.

6. The 5th respondent would submit that since the survey was with reference to only the cart track, there was no necessity to serve notice on the petitioner and others. Therefore, they sought for the dismissal of the Writ Petition.

7. The 3rd respondent has filed a counter affidavit, which is



nothing but a verbatim reproduction of the counter filed by the 5th respondent.

8. The respondents 1, 2 and 4 had been directed to file an affidavit as to whether the survey has been conducted in violation of the provisions of Sections 5 and 6 of the Tamil Nadu Survey and Boundaries Act.

9. An affidavit has not been filed. However, a communication from the Tahsildar, Gobichettipalayam, Erode, addressed to the Special Government Pleader has been produced. A reading of which would clearly show that the survey has been conducted and notice has not been issued to the petitioner. The Tahsildar's contention is that no notice was required since the survey was conducted on Porambokku land.

10. Heard the learned counsels on the either side and perused the records.



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11. The petitioner's contention is that survey can be conducted only after issuing notice to the parties as contemplated under Section 5 and 6 of the Tamil Nadu Survey and Boundaries Act. The request is justified as the Act contemplates such a notice.

12. From the counter and the communication of the Tahsildar, it is clearly evident that no prior notice has been given and the respondents would justify by stating that no notice is required, since the land in question is a porambokku land.

13. Be that as it may, the Writ Petition is disposed of with the following directions:

(a) Notice shall be issued to the petitioner, owners of the land adjoining either side of the Government Porambokku (Vandi Padhai) situate in S.Nos.103, 104, 106, 107, 109 and 116, within a period of 2 weeks, from



the date of receipt of a copy of this order, specifying the date on which the survey is proposed to be conducted.

(b) On the date of the survey, the measurement shall not only be restricted to the Government Porambockku (Vandi Padhai), but it shall also extended to the adjoining land as well, as per documents of the respective land owners.

(c) If during the survey any objection is received, the said objection shall first considered and orders passed thereon.

14. The entire exercise shall be completed within a period of 4 months, from the date of receipt of a copy of this order. Consequently, the connected miscellaneous petition is closed. No costs.

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Index : Yes/No
Internet : Yes/No
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