



WEB COPY



WA No. 426 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2024

CORAM :

THE HONOURABLE MR. JUSTICE R. MAHADEVAN
and
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

Writ Appeal No. 426 of 2024
and
CMP No. 2882 of 2024

1. Pitchaimani
2. Srinivasan

.. Appellants

Versus

1. Balaji
2. Amarnath
3. The State Rep. by the District Collector,
O/o. The District Collector,
Ranipet Dist.
4. The District Revenue Officer,
O/o. District Revenue Office,
Ranipet Dist.,
5. The Superintendent of Police,
O/o The Superintendent of Police,
Ranipet Dist.,
6. The Assistant Director of Survey and Land Records,
Walajapet Taluk, Ranipet District.
7. The Head Surveyor,
Walajapet Taluk office,
Ranipet District.



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8. The Inspector of Police,
Walajapet police station,
Ranipet, Ranipet District

.. Respondents

Writ Appeal filed under Clause 15 of Letters Patent praying to set aside the order dated 05.10.2023 made in WP. No. 28801 of 2023 on the file of this Court

For Appellants : Mr. R. Ramesh
For R3 to R8 : Mr. A. Selvendran
Special Government Pleader

JUDGMENT

(Judgment of the Court was delivered by R. MAHADEVAN, J.)

The appellants are the respondents 7 and 8 in WP No. 28801 of 2023 filed by the respondents 1 and 2 in this appeal. They have filed this appeal challenging the order dated 05.10.2023 passed by the learned Judge in W.P. No. 28801 of 2023.

2. The aforesaid writ petition has been filed by the respondents 1 and 2 herein, praying to issue a Writ of Mandamus directing the respondents 6 and 7 to survey the land by taking police protection from the fourth respondent pursuant to the request of the respondents 1 and 2, *vide* e-challan dated 14.08.2023 bearing No. 20230814004004 in respect of the property at Survey No.213, Patta No.468 in Thekadapanthangal Village, Wallajah Taluk, Ranipet District.



3. In the affidavit filed in support of the writ petition, it was stated by

4. On 05.10.2023, when the Writ Petition was listed for admission,



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for the writ petitioners, learned Special Government Pleader as well as learned Additional Public Prosecutor, disposed of the writ petition by directing the 7th respondent to consider the application of the writ petitioners and to complete the survey of the land within a period of one month. It was also observed in the said order that if the Revenue authority / Survey Department feels that the police protection is necessary, they can seek assistance of the sixth respondent in the writ petition and on such request made by the Revenue authority, the sixth respondent in the writ petition shall extend their fullest co-operation for the peaceful completion of work.

5. On 06.12.2023, the aforesaid writ petition was again listed under the caption "for being mentioned" at the instance of the appellants herein. The learned Judge, after hearing the counsel for all the parties, clarified the order dated 05.10.2023 passed in the writ petition, to the effect that no adverse direction was issued against the appellants who were the respondents 7 and 8 in the writ petition. It was further observed that the seventh respondent should complete the work of survey of the land in question, after issuing due notice to all the parties, including the appellants as well.

6. Aggrieved by the order so passed by the learned Judge, the respondents 7 and 8 in the writ petition, are before this court with the present appeal.



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7. The learned counsel appearing for the appellants submitted that the learned Judge disposed of the writ petition at the admission stage itself, without hearing the appellants. Adding further, the learned counsel submitted that the respondents 1 and 2 / writ petitioners have no right, title or interest over the land in question. Further, the respondents 1 and 2 have already filed a suit in O.S. No. 112 of 2002 before the District Munsif Court, Walajah and the same was dismissed on 06.10.2009. By suppressing the same, they have filed the present writ petition. That apart, Patta No. 468 obtained in the names of the writ petitioners is forged one and hence, they cannot assert any right over the land in question based on the said patta. However, these factors have not been taken note of by the learned Judge. According to the learned counsel, in any event, order of the the learned Judge, directing the seventh respondent to survey the land in question, without affording sufficient opportunity to the appellants herein to putforth their submission, is causing serious prejudice to them. Therefore, the learned counsel prayed for setting aside the order of the learned Judge and thereby allowing this appeal.

8. Per contra, the learned Special Government Pleader for the respondents 3 to 8 submitted that the order dated 05.10.2023 was subsequently clarified by the learned Judge on 06.12.2023 to the effect that



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before surveying the land in question, notice was directed to be issued to the appellants herein so as to enable them to be present at the time of survey of the land and raise their objections, if any. According to the learned counsel, merely because the land is directed to be surveyed and boundaries are fixed, the dispute with respect to title will not be adjudicated or examined. Therefore, the writ appeal filed by the appellants based on apprehension is not maintainable and is liable to be dismissed.

9. We have heard the learned counsel for the appellants, learned Special Government Pleader for the respondents 3 to 8 and also perused the materials placed on record.

10. It is seen from the records that the respondents 1 and 2 have filed the writ petition seeking a direction to the authority concerned to survey the land in question and fix boundaries, by projecting that they are the owners of the land in question and the application submitted by them in this regard, has not been acted upon by the seventh respondent. Considering the claim of the respondents 1 and 2, the learned Judge without going into the merits of the case, has disposed of the said writ petition by directing the seventh respondent to survey the land and fix the boundaries within a period of one month by



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order dated 05.10.2023, the operative portion of which is quoted below for ready reference:

"6. In view of the submissions made by the learned counsel on either side, taking into consideration the limited prayer sought for in the writ petition, without expressing any opinion with regard to the merits of the case, this Court directs the fifth respondent to consider the petitioners' representation and complete the work in accordance with law preferably within a period of one month from the date of receipt of a copy of this order. If the Revenue authority / Survey Department feels that the police protection is necessary, they can seek assistance of the sixth respondent police and on such request made by the Revenue Authority, the sixth respondent shall extend their fullest cooperation for the peaceful completion of work."

Subsequently, the aforesaid order of the learned Judge was clarified on 06.12.2023 in the following terms:

"6. In view of the submissions made by the learned counsel on either side and taking into consideration the limited prayer sought for in the writ petition, without expressing any opinion on the merits of the case, this Court directs the fifth respondent to consider the petitioners' representation dated 14.08.2023 and after giving notice and affording due opportunity of hearing to the writ petitioner, adjacent land owners of the four boundaries of the subject property, private respondents as well as rival claimants / interested parties, if any, and conduct enquiry and pass appropriate orders on merits and in accordance with law preferably within a period of one month from the date of receipt of a copy of this order. If the Revenue authority / Survey Department feels that the police protection is necessary, they can seek assistance of the sixth respondent police and on such request made by the Revenue Authority, the sixth respondent shall extend their fullest cooperation for the peaceful completion of work."

11. This court is of the view that the order of the learned Judge dated 05.10.2023, which was clarified on 06.12.2023, holds good. As rightly pointed out by the learned Special Government Pleader appearing for the respondents 3 to 8, merely because the land in dispute is directed to be surveyed, it will not amount to deciding the title *inter se* between the parties. When the learned



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Judge had directed the seventh respondent to issue notice to the appellants also, before resorting to survey the land, there is absolutely no prejudice caused to the appellants by reason of the direction to survey the land in question. Therefore, we find no reason to interfere with the order passed by the learned Judge. However, it is open to the appellants to raise their objections before the seventh respondent herein at the time when the land is surveyed. It is also open to the seventh respondent herein to seek police protection, as directed by the learned Judge, if it is necessary. After survey of the land, the objections of the appellants as well as the claim of the writ petitioners shall be considered and necessary orders be passed by the authorities concerned in the manner known to law.

12. With the above observations and directions, this writ appeal stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

[R.M.D., J.] [M.S.Q., J.]

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Index : Yes / No
Internet : Yes / No

av/rsh



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To

WEB COPY

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O/o. The District Collector,
Ranipet Dist.
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O/o. District Revenue Office,
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