



WEB COPY



W.P.No.28708 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2024

CORAM:

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.28708 of 2018

and

W.M.P.No.33530 of 2018

Paramayee

...Petitioner

-Vs-

1.The Tahsildar,
Edappadi Taluk,
Salem District.

2.The Firka Surveyor,
Poolampatti Firka,
Edappadi Taluk,
Salem District.

3.K.Jeyaraman

4.K.Thirumurthy

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a direction in the nature of Writ of Mandamus, forbearing the respondents from in any way conducting land survey in respect of disputed boundaries relating to R.S.No.39 (11.39 acres) and R.S.No.40 (4.85 acres), Nedungulam Village, Edappadi Taluk, Salem District, in violation of the provisions of the Tamil Nadu Survey and



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Boundaries Act, 1923 till the final partition between the co-sharers by metes and bounds and pass such further orders.

For Petitioner : Mr.N.Manokaran
For R1 & R2 : Mr.K.Surendran
Additional Government Pleader
For R3 & R4 : No appearance

ORDER

This writ petition is filed for issuance of a Writ of Mandamus, forbearing the respondents from in any way conducting land surveys in respect of disputed boundaries relating to R.S.No.39 (11.39 acres) and R.S.No.40 (4.85 acres), Nedungulam Village, Edappadi Taluk, Salem District, in violation of the provisions of the Tamil Nadu Survey and Boundaries Act, 1923 till the final partition between the co-sharers by metes and bounds.

2. When the matter came up for hearing, learned counsel appearing for the petitioner as well as learned Additional Government Pleader appearing for the respondents 1 and 2 are at idem that the matter was covered by the judgment of this Court in ***W.P.No.11532 of 2024*** in the case of ***R.Mohan Vs. The Sub Collector, Tiruppur and Others***, which held as follows:



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“6. The challenge has been made against the proceedings of the 2nd respondent/Tahsildar for surveying the land. It is the contention of the learned counsel for the petitioner that admittedly the suit in O.S.No.462 of 2023 pending on the file of the Sub-Court, Avinashi is filed by the writ petitioner seeking declaration and permanent injunction. The second item shown in the above suit is the subject matter of the proceedings before this Court. When the suit is pending, the 1st defendant/4th respondent has approached the Tahsildar for survey of the property and the proceeding came to be passed. When the suit is already pending between the parties, this Court is of the view that the direction passed by the 2nd respondent/Tahsildar to survey the land cannot be sustained by way of law. If at all the parties have to establish the right, the survey has to be done only at the orders of the Civil Court and not by the respondents themselves. In such view of the matter, the impugned order passed by the 2nd respondent in S.B.A.300/2023/S-1 dated 29.02.2024 stands quashed. Let the parties agitate the rights in the concerned Civil Court and if any demarcation is necessary for effective hearing, let the parties file an appropriate application before the concerned Civil Court for survey by the concerned officials.”

J.SATHYA NARAYANA PRASAD, J.



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In view of the above ratio laid down by this Court, **this writ**

petition stands allowed with the above observation. No costs.

Consequently, connected miscellaneous petition is closed.

04.07.2024

cda

To

- 1.The Tahsildar,
Edappadi Taluk,
Salem District.
- 2.The Firka Surveyor,
Poolampatti Firka,
Edappadi Taluk,
Salem District.

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