



W.P(MD)No.1477 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 01.04.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.1477 of 2024

Mary Pushpam

... Petitioner

Vs.

1.The Revenue Divisional Officer,
Revenue Divisional Office,
Collectorate,
Nagercoil,
Kanyakumari District – 629 001.

2.The Tahsildar,
Thovalai Taluk,
Thovalai Taluk Office,
Boothapandi,
Kanyakumari District – 629 852.

3.The Taluk Surveyor,
The Land Survey Division,
Tahsildar Office,
Thovalai Taluk,
Boothapandi,
Kanyakumari District – 629 852.



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4.The Firka Surveyor,
Thovalai Firka,
O/o.Thovalai Firka Surveyor,
Boothapandi,
Kanyakumari District – 629 852.

5.M.Muthukrishanan

6.M.Parvathy

7.Ranjitha R.Gopal

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 1 to 4 to survey and fix four boundaries of the petitioner's family lands situated at Re.Survey No. 765/5A, Thovalai Village, Kanyakumari District, and to consequentially direct the respondents 3 and 4 to dispose off the petitioner's Application vide Application No. 2023/0123/30/000037, dated 05.12.2023 within the time frame stipulated by this Court.

For Petitioner : Mr.G.Anto Prince

For Respondents : Mr.P.Thamni Durai
Government Advocate for R.1 to R.4

Mr.V.R.Shanmuganathan for R.5 & R.6

Mr.Raguvaran Gopalan for R.7

ORDER

Heard both sides.

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2.The petitioner and her children are having joint patta (Patta No. 2847) in their names. The petitioner wants survey to be conducted in respect of Survey No.765/5A. This is opposed by the respondents 5 and 6.

3.I am of the view that this writ petition can be disposed of by giving the usual directions. The second respondent is directed to dispose of the petitioner's application for survey in the following terms:

(I) The petitioner is directed to submit his / her application in online mode. The survey authority will scrutinize if the application submitted by the petitioner is in order.

(II) The petitioner will have to enclose all the relevant documents such as patta. The applicant must have individual patta in his / her name. If he / she is having joint patta, co-pattadars must give their consent for conducting survey.

(III) The survey authority will issue notice to the writ petitioner as well as the adjacent land owners and also to the interested persons, if any.



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(IV) Enquiry shall be held. During enquiry, objections raised by the adjacent land owners / interested persons shall be considered.

(V) If according to the jurisdictional authority, the objections are without any basis, the same shall be overruled and the objectors shall be informed accordingly. But the survey will be conducted only after a period of six weeks so that the objector can move the concerned Court for injunction. If before the proposed date of survey, the objector is unable to obtain any injunction order, the survey can very well go on.

(VI) It is open to the parties to serve memo of instructions to the surveyor at the time of conducting survey. The same will be borne in mind. While it cannot be binding on the surveyor, the same will be taken note of.

(VII) If the jurisdictional authority finds objections to be having substance, then, he shall call upon the applicant to move the jurisdictional civil Court for agitating his rights.



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(VIII) If required, the survey authority is empowered to seek aid of the jurisdictional police and the jurisdictional police are mandated to grant police protection.

(IX) It is made clear that at the end of the survey exercise, survey stones alone can be installed. The exercise of survey and demarcation undertaken pursuant to the direction of this Court can never result in dispossession of any party. No person shall put up fencing without getting civil Court's decree if there is objection.

(X) The survey authority will conclude the entire exercise one way or the other within a period of six weeks after service of notice on the interested persons.

(XI) A copy of the survey report along with sketch will be served on the parties. No costs.

01.04.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
MGA



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G.R.SWAMINATHAN, J.

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