



W.P(MD)No.2088 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.02.2024

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.2088 of 2024

and

W.M.P(MD)No.2093 of 2024

V.Ananthappan

..Petitioner

Vs

1.The Tahsildar,
Ottapidaram Taluk,
Thoothukudi District.

2.The Taluk Deputy Inspector/Head Surveyor,
Ottapidaram Taluk Office,
Thoothukudi district.

3.A.Senthur

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the Impugned Order passed by the second respondent in his proceedings notice in FLA/274/2022, dated 27.12.2023 issued by the second respondent and quash the same as illegal and consequently direct the respondents 1 & 2 to stop the survey the property in Survey No.189/1 and 189/2 situated at Vellaram Village, Ottapidaram Taluk, Tuticorin District to an extent of 1 Acre 85 cents and fix the boundary.



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For Petitioner :Mr.K.Arunraj
For R1 & R2 :Mr.SRA.Ramachandran
Additional Government Pleader

ORDER

The Petitioner has prayed for issuance of a Writ of Certiorari, calling for the records relating to the Impugned Order passed by the second respondent in his proceedings notice in FLA/274/2022, dated 27.12.2023 and quash the same as illegal and consequently, direct the respondents 1 & 2 to stop the survey of the property in Survey No.189/1 and 189/2 situated at Vellaram Village, Ottapidaram Taluk, Tuticorin District to an extent of 1 Acre 85 cents and fix the boundary.

2.Heard Mr.K.Arunraj, learned counsel appearing for the petitioner, Mr.SRA.Ramachandran, learned Additional Government Pleader appearing for the respondents 1 & 2.

3. Considering the nature of the order proposed to be passed, protecting the interest of the third respondent, notice to the third respondent is dispensed with.



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4. The case of the petitioner is that he had purchased the property from one Sathishraja through a registered sale deed in Document No.872 of 2017, dated 13.06.2017 comprised in survey No.189/15 and 189/6 to an extent of 1 acre 57 cents situated at Vellaram Village, Ottapidaram Taluk, Tuticorin District. He was an absolute possession and enjoyment of the said property. The third respondent is the adjacent land owner. He filed a writ petition before this Court in W.P(MD)No.12446 of 2021 seeking to survey the land in S.No. 189/1 situated at Vellaram Village, Ottapidaram Taluk, Tuticorin District and to fix the boundary. The said case was disposed on 23.07.2021. Thereafter, the second respondent issued notice to the petitioner and the third respondent stating that the survey of the land to be held on 14.09.2021 at about 10.00 a.m. On the day survey was conducted and boundaries were fixed. Once again the third respondent approached this Court and filed a writ petition in W.P(MD)no. 30392 of 2023 seeking to survey his properties comprised in Survey No.189/1 and 189/2 on ground that the official respondents have not properly surveyed the properties and fix the boundaries. The said writ petition was disposed of on 20.12.2023. Based on the orders of this Court, the second respondent issued proceeding in FLA/274/2022, dated 27.12.2023 to the petitioner and the third respondent stating that survey of the land to be held on 03.01.2024 at about 11.30 a.m. The petitioner gave serious objections to the respondents 1 & 2 to



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survey the property. Again and against the third respondent gave unnecessary disturbance to the petitioner and his family members. Therefore, he filed the present writ petition to quash the proceedings dated 27.12.2023 issued by the second respondent.

5. This writ petition is disposed of at the admission stage itself. It is open to any aggrieved party to move this Court either by way of review or recall of this order, if there is any suppression of material facts by the petitioner.

6.The Writ Petition is disposed of with the following directions:-

(I) The survey authority will scrutinize if the application submitted by the applicant is in order.

(II) The applicant 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 given their consent for conducting survey.

(III) The survey authority will issue notice to the writ applicant 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.

(VIII) If required, the survey authority is empowered to seek



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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 at the time of survey by using police aid.

(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. The petitioner is directed to appear before the authorities on 10.02.2024 along with all the documents. No costs. Consequently, connected miscellaneous petition is closed.

02.02.2024

Index : Yes/No



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Internet: Yes/No
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To

- 1.The Tahsildar,
Ottapidaram Taluk,
Thoothukudi District.
- 2.The Taluk Deputy Inspector/Head Surveyor,
Ottapidaram Taluk Office,
Thoothukudi district.



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V.BHAVANI SUBBAROYAN,J

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