



WP(MD)No.2241 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 18.11.2024

CORAM

THE HON'BLE MRS.JUSTICE N.MALA

W.P(MD)No.2241 of 2023

1.P.Pandiarajan

2.P.Sarala

...Petitioners

Vs.

1.The District Collector,
Madurai District,Madurai.

2.The Revenue Divisional Officer,
Madurai Division,
Madurai - 625 020

3.The Tahsildar,
Madurai West Taluk,
Madurai – 625 016

4.The City Sub-Inspector (Land Survey),
Madurai West Taluk,
Tahsildar Office,
Virattipathu,
Madurai – 625 016.

...Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India to issue a writ of mandamus directing the respondents to rectify the measurements in the Town Survey Records, more specifically to state in T.S.No.439 and to carry out the correct measurements as found in the registered sale deed dated 30.08.2010 registered as Doc.No.7281/2010 on the file of the Joint-I Sub Registrar Office, Madurai South by considering petitioner's representation dated 15.10.2022.

For Petitioners : Mr.M.P.Senthil
For R1 to R4 : Mr.M.Muthumanikkam
Government Advocate



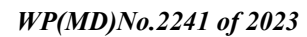
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ORDER

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This Writ Petition is filed for issuance of writ of mandamus directing the respondents to rectify the measurements in the Town Survey Records, more specifically with reference to T.S.No.439 and to carry out the correct measurements as found in the registered sale deed dated 30.08.2010 by considering the petitioner's representation dated 15.10.2022.

2. It is the petitioner's case that the land in Old Town Survey No. 439 to an extent of 53 square metres belongs to the petitioner and his wife by virtue of a sale deed dated 30.08.2010. The said old survey number was subdivided into T.S.Nos.439, 440/2 and 440/3. After subdivision, T.S.No.349 to an extent of 17 sq.ms and T.S.No.440/2 to an extent of 9.5 sq.ms, totally 26.5 sq.ms was only reflected in the patta issued to the petitioner. In the patta issued for survey No.440/3, third party's name was reflected. According to the petitioner, the total extent for the aforesaid Town Survey numbers were actually 53 sq.mts, but in the patta it was shown as 26.5 sq.mts. The petitioner therefore requested the second respondent to survey the subject survey number and to rectify



3. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission 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.

4. It is seen that the petitioner gave his representation as early as on 15.10.2022. However, the third respondent has not taken any steps even after lapse of two years from the date of the representation.

5. The learned Government Advocate submits that the petitioner did not pay charges for survey and therefore, survey was not conducted.

6. The learned counsel for the petitioner submits that he is given to



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understand that necessary charges were paid, but proof for the same was not produced.

7. In view of the submissions of both the learned counsels, it is ordered that in case the petitioner has not paid charges, the petitioner shall pay the same within a period of one week from the date of receipt of a copy of this order. Thereafter only, the directions issued in this order would be implemented.

8. This Court in W.P(MD)No.12676 of 2024, dated 14.06.2024 issued certain directions for considering the application for survey and fixing the boundary. Following the said order, the following directions are issued:

(I) The petitioner is directed to submit his / her application in on-line mode. The survey authority will scrutinize if the application submitted by the petitioner is in order. Patta need not be in the name of the applicant. If patta is in the name of the vendor and mutation has not been effected, still the application can be considered.

(II) The petitioner will have to enclose all the relevant



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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.

(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.



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(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 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. If the petitioner wants to put up fencing and if there is any objection from any private party, fencing can be put up only after the petitioner obtains decree from the jurisdictional Civil Court.

(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.



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9. With the aforesaid directions, the Writ Petition stands disposed

of. No costs.

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NCC : Yes / No
Index : Yes / No
Internet : Yes / No
CM

To,
1.The District Collector,
Madurai District,Madurai.

2.The Revenue Divisional Officer,
Madurai Division,
Madurai - 625 020

3.The Tahsildar,
Madurai West Taluk,
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N.MALA,J.

CM

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