



W.P.(MD)No.2923 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED 12.02.2024

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THE HONOURABLE **MRS.JUSTICE V.BHAVANI SUBBAROYAN**

W.P(MD)No.2923 of 2023

M.Magudeeshwari

...Petitioner

/Vs./

1.The District Collector,
Dindigul District,
Dindigul.

2.The Tahsildar,
Oddanchatram Taluk,
Oddanchatram,
Dindigul District.

3.The Superintendent of Police,
Dindigul District,
Dindigul.

4.The Inspector of Police,
Oddanchatram Police Station,
Oddanchatram,
Dindigul District.

5.S.Gandhimathi Nathan

...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



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and 2 to survey bearing S.No.337/3 measuring 4 cents and in S.No.338/1A2 measuring 7 ½ cents and out of the total extent measuring 11 ½ cents in both the survey numbers and out of the said 11 ½ cents the 2 cents on the eastern side situated at Naganampatti Village, Oddanchatram Taluk, Dindigul District, purchased by the petitioner, consequently direct the 3rd and 4th respondents/ Police to provide adequate police protection at the time of conducting survey by the Respondent No.2 within stipulated time fixed by this Court.

For Petitioner : Mr.B.Moorthikannan

For Respondents : Mr.D.Gandhiraj (R1 & R2)

Special Government Pleader

Mr.S.S.Mathavan (R3 & R4)

Government Advocate

ORDER

This writ petition has been filed for issuance of writ of mandamus directing the respondents 1 and 2 to survey bearing S.No.337/3 measuring 4 cents and in S.No.338/1A2 measuring 7 ½ cents and out of the total extent measuring 11 ½ cents in both the survey numbers and out of the said 11 ½ cents the 2 cents on the eastern side situated at Naganampatti Village, Oddanchatram Taluk, Dindigul District, purchased by the petitioner, consequently direct the 3rd and 4th respondents/ Police to provide adequate police protection at the time of conducting survey by the Respondent No.2 within stipulated time fixed by this Court.



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2. Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader and the learned Government Advocate appearing for the official respondents. Considering the nature of the order going to be passed in this writ petition, notice to the fifth respondent is dispensed with. By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

3. The case of the petitioner is that the subject property is in possession of the petitioner by way of sale deed. The petitioner applied for survey of the property and also paid necessary fee. Since no steps have been taken to survey the property, the present writ petition has been filed.

4. The learned Additional Government Pleader appearing for the respondents submits that since there is joint patta in names of 14 persons, survey will be conducted only after issuance of notice to all the joint pattadhars.

5. Considering the aforesaid facts and circumstances of the case, this writ petition is disposed with the following directions:-

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



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(ii) The petitioner will have to enclose all the relevant documents such as patta. If the petitioner is having only a joint patta, he must get consent from co-pattadors for conducting survey.

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

(iv) Enquiry shall be held. During enquiry, objections raised by the adjacent land owners / the joint pattadhars / the 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 sixteen weeks so that the objectors can move the concerned Court for injunction. If before the proposed date of survey, the objectors are 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 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 sixteen 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.

12.02.2024

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
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V.BHAVANI SUBBAROYAN, J.

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TO:-

- 1.The District Collector,
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Dindigul.
- 2.The Tahsildar,
Oddanchatram Taluk,
Oddanchatram,
Dindigul District.
- 3.The Superintendent of Police,
Dindigul District,
Dindigul.
- 4.The Inspector of Police,
Oddanchatram Police Station,
Oddanchatram,
Dindigul District.

Order made in
W.P(MD)No.2923 of 2023

Dated:
12.02.2024