



W.P(MD)No.4199 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 22.02.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.4199 of 2024
and
W.M.P(MD)No.4041 of 2024

A.Ravichandran

... Petitioner

Vs.

- 1.The District Collector,
Madurai District,
Madurai.
- 2.The Tahsildar,
Vadipatti Taluk,
Madurai District,
Madurai.
- 3.The Taluk Surveyor,
Vadipatti,
Vadipatti Taluk,
Madurai District.
- 4.The Village Administrative Officer,
Kallanai Village,
Alanganallur,
Vadipatti Taluk,
Madurai District.



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5.K.G.Pandiyan

... Respondents

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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the impugned order of the second respondent in Na.Ka.No. 9097/E2/2023 dated 14.02.2024 and quash the same.

For Petitioner : Mr.P.Murugesan

For Respondents : Mr.S.Kameshwaran
Government Advocate for R.1 to R.4

Mr.V.Malaiyendiran for R.5

ORDER

Heard both sides.

2.The third respondent purchased the petition mentioned properties from the writ petitioner vide three sale deeds.

3.The learned counsel appearing for the fifth respondent states that based on the said sale deeds, patta has also been mutated in his favour. The fifth respondent applied to the revenue authority for conducting survey. Since the Tahsildar, Vadipatti did not act on his application, he



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filed W.P(MD)No.10210 of 2023. The petitioner herein / A.Ravichandran filed W.P(MD)No.12320 of 2023 for forbearing the authorities from conducting survey or subdivision the land. He also filed W.P(MD)No.18404 of 2023 for cancelling the sale deeds executed in favour of the fifth respondent. All the three writ petitions were taken up together and given disposal by a common order dated 31.08.2023. W.P(MD)No.10210 of 2023 was disposed of with direction to the authorities to conduct survey after issuing notice. The other two writ petitions filed by the petitioner herein were dismissed. Liberty was given to the petitioner herein to move the jurisdictional civil Court.

4.Avaling the said liberty, the petitioner herein has filed O.S.No. 35 of 2024 on the file of District Judge, Madurai. In the meanwhile, pursuant to the direction given by this Court in W.P(MD)No.10210 of 2023, survey notice was issued. Challenging the same, the petitioner herein filed W.P(MD)No.13364 of 2023. The said writ petition was closed on 19.01.2024 by directing the parties to appear before the Tahsildar and place their case. Pursuant to the said directions, the impugned order came to be passed on 14.02.2024. The Tahsildar,



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Vadipatti had rejected the petitioner's objections and directed that survey will be held tomorrow. Challenging the order passed by the Tahsildar, Vadipatti the present writ petition came to be filed.

5.The learned counsel on either side reiterated their respective contentions. It is true that this Court had directed that survey should be conducted. But then, it is not a peremptory direction. It was to be done after giving notice to the petitioner herein. The petitioner had lodged his objections. His objections have been over ruled. It does not meant that survey should be conducted immediately thereafter. The petitioner deserves to be given breathing time to show that the over ruling of his objection is not in order. It is seen that the petitioner has already filed civil suit in O.S.No.35 of 2024. The petitioner is given liberty to file an Interlocutory Application in the pending suit. The impugned order dated 14.02.2024 passed by the Tahsildar, Vadipatti can be marked the enquiry into the said Interlocutory Application. After hearing both the parties, it is for the learned trial Judge to pass an appropriate order on merits and in accordance with law. If any injunction order is granted in favour of the writ petitioner, then survey shall not be held. If the Interlocutory



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Application filed by the petitioner herein is dismissed, survey shall be held. It is not necessary for the authority to give further breathing time for the petitioner to file CMA or CRP. The learned counsel appearing for the petitioner is not clear if any Interlocutory Application has been filed. The learned counsel appearing for the fifth respondent states that he has not received any notice.

6.Be that as it may, Interlocutory Application already filed / to be filed by the petitioner shall be disposed of by the learned trial Judge on merits in accordance with law on or before **10.04.2024**. Based on the outcome of the said Interlocutory Application, the impugned order will abide. If the Interlocutory Application filed by the petitioner is dismissed, it is not necessary to issue any fresh survey notice. Survey shall be conducted thereafter. The object of survey is only to earmark the boundaries and install the stones. No person can be dispossessed as a result of the survey exercise. I make it once again clear that no finding has been rendered in this writ petition as to who is in possession of the property. This aspect of the matter has to be decided only by the civil Court.



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I have not gone into the merits of the matter. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

22.02.2024

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

Note: Issue order copy on 13.03.2024.

To

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G.R.SWAMINATHAN, J.

MGA

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