



W.M.P(MD)No.8281 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.04.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.M.P.(MD)Nos.8281, 8282 and 8283 of 2024

in

W.P(MD)No.3721 of 2024

C.Ramar

D.Boopathi

... Petitioners

Vs.

1.S.Backiyalakshmi

2.The Tahsildar,
Vedasanthur Taluk,
Dindigul District.

3.The Taluk Surveyor,
Vedasanthur Taluk,
Dindigul District.

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

... Respondents

Prayer in W.M.P.(MD)No.8281 of 2024 : Writ Miscellaneous Petition filed under Article 226 of the Constitution of India, to recall the order dated 19.02.2024 made in W.P.(MD)No.3721 of 2024 and dismiss the writ petition in W.P.(MD)No.3721 of 2024 with cost.



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For Petitioners : Mr.Ajmal Khan, Senior Counsel,
For M/s.Ajmal Associates.

For Respondents : Mr.D.Sasi Kumar,
Addl. Govt. Pleader for R2 & R3.
Mr.Albert James,
Govt. Advocate (Crl. Side) for R4
Mr.S.Srinivasa Raghavan,
For Mr.C.Prithiviraj for R1.

ORDER

Heard the learned senior counsel for the petitioners, the learned counsel for the first respondent, the learned Additional Government Pleader for the respondents 2 and 3 and the learned Government Advocate (Crl. Side) for the fourth respondent.

2.The first respondent herein filed W.P.(MD)No.3721 of 2024 for conducting survey in respect of S.No.1772/5A, Ottanagampatti, Vedasandur Taluk, The writ petition was disposed of on 19.02.2024 by issuing standard directions. Contending that the order was obtained by suppression of material facts, W.M.P.(MD)No.8281 of 2024 has been filed.



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3.The learned senior counsel for the petitioners reiterated all the contentions set out in the affidavit filed in support of the miscellaneous petition and took me through the materials enclosed in the typed set of papers. It is seen that the notice was issued on 29.01.2024 proposing to conduct survey on 07.02.2024. This was issued to Ramar, Boopathi and Backiyalakshmi. However, the second survey notice was issued only to the writ petitioner / Backiyalakshmi and one Ashok Kumar. The first survey notice is prior in point of time. I fail to understand as to why the second survey notice was not issued to the petitioner in this miscellaneous petition. This raises some doubt regarding the bonafides of the authorities. But this objection is sought to be overcome by the learned counsel for the first respondent by demonstrating the presence of Ramar when the survey was actually conducted. The presence of Ramar does not appear to be in dispute. The learned senior counsel would point out that S.No.1772/5A has been classified as Nilaviyal Pathai and that it has been described in the revenue record as sarkar poramboke and that its guideline value is zero.

4.The learned counsel for the first respondent on the other hand pointed out that patta has been issued in favour of the first respondent and that the



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guideline value has also been assigned. I am *prime facie* satisfied that there are contentious disputes of fact and law.

5.While passing order in the writ petition filed by the first respondent, I had specifically mandated that fencing shall not be put up. In this case, fencing had been done. This runs counter to the direction given by this Court. The learned counsel for the first respondent / writ petitioner herein undertakes to remove and dismantle the fencing in its entirety.

6.Recording this undertaking, I direct the first respondent to ensure that the entire fencing is dismantled within a period of seven days from the date of receipt of a copy of this order. Since the writ petitioner / Backiyalakshmi is having patta in her favour in respect of S.No.1772/5A and the same has also been enclosed in the typed set of papers and it is not also disputed by the revenue authority, the survey report and sketch need not be set aside or the order recalled in this miscellaneous petition. However, it is for the parties to establish their rights before the jurisdictional Civil Court. If the first respondent herein wants to put up fencing in future, she may do so only after obtaining decree from the jurisdictional Civil Court.



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7.W.M.P.(MD)No.8281 of 2024 is disposed of accordingly. In view of the order passed in W.M.P.(MD)No.8281 of 2024, W.M.P.(MD)Nos.8282 and 8283 of 2024 are closed.

15.04.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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Issue order copy on 18.04.2024.

To:-

- 1.The Tahsildar,
Vedasanthur Taluk,
Dindigul District.
- 2.The Taluk Surveyor,
Vedasanthur Taluk,
Dindigul District.
- 3.The Inspector of Police,
Vedasanthur Police Station,
Dindigul District.



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G.R.SWAMINATHAN, J.

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**W.M.P.(MD)Nos.8281, 8282 and 8283 of 2024
in
W.P(MD)No.3721 of 2024**

15.04.2024