



W.P(MD)No.7484 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.03.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.7467 of 2024

M.Mokkai Eattu

... Petitioner

Vs.

1.The District Collector, Madurai.

2.The Revenue Divisional Officer,
Usilampatti, Madurai.

3.The Tahsildar,
Usilampatti, Madurai.

4.M.Surendran

... Respondents

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 third respondent dated NIL and quash the same.

For Petitioner : Mr.S.Ramsundarvijayaraj

For Respondents : Mr.V.Nirmalkumar, Government Advocate
for R1 to R3



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ORDER

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Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents 1 to 3. The fourth respondent wanted survey to be conducted. The fourth respondent has made an application to that effect to the Tahsildar, Usilampatti. The Tahsildar, Usilampatti issued notice to the petitioner. The petitioner's case is that he is in possession of the property and that therefore survey cannot be conducted. The petitioner challenged the survey notice. Such a challenge is not maintainable.

2.This writ petition is disposed of with the following directions :

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

(II) The fourth respondent 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 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.

(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.



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(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. No costs.

25.03.2024

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

SKM

To:

- 1.The District Collector, Madurai.
- 2.The Revenue Divisional Officer, Usilampatti, Madurai.
- 3.The Tahsildar, Usilampatti, Madurai.



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G.R.SWAMINATHAN, J.

SKM

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