



W.P(MD)No.7511 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 26.03.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.7511 of 2024

M.Ramachandran

... Petitioner

Vs.

1.The District Collector,
Theni District,
Theni.

2.The Tahsildar,
O/o.The Tahsildar,
Theni District.

3.The Firka Surveyor,
Theni, Theni District.

... 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 2 and 3 to measure and demarcate the petitioner's properties in S.No.976/2 measuring about 2 Acer and 63 Cents situated at Veerapandi Village, Theni District by considering the petitioner's representation dated 09.02.2024.

For Petitioner : Mr.C.Susikumar



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For Respondents : Mr.A.Kannan
Additional Government Pleader

ORDER

When the matter was taken up for hearing, the learned Special Government Pleader submitted that the petitioner is having only joint patta. When one of the joint pattadhars wants survey to be conducted, notice has to be issued all the other joint pattadhars. If all the joint pattadhars appear before the authority and there is consensus, then survey to be conducted. If there is no consensus or some of the joint pattadhars do not appear or do not co-operate, then the applicant has to move before the jurisdictional civil Court for partition. If survey is to be conducted, the following directions shall be adhere to:

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

(II) The petitioner 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 give their consent for conducting survey.



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(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



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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 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.

26.03.2024

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



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G.R.SWAMINATHAN, J.

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