



W.P.(MD)No.8527 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED **04.01.2024**

CORAM

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

W.P(MD)No.8527 of 2023

Kubendran

...Petitioner

/Vs./

1.The District Collector,
Theni District, Theni.

2.The Tahsildar,
Uthamapalayam Taluk,
Uthamapalayam, Theni District.

3.The Taluk Surveyor,
Uthamapalayam Taluk,
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 to survey the petitioner's land in S.No.91/2 situated at Uthampuram Village, Cumbum Town, Uthamapalayam Taluk, Theni District, based on the petitioner's representation dated 01.03.2023 within a stipulated time that may be fixed by this Court.

For Petitioner : Mr.S.Kanagarajan

For Respondents : Mr.P.Thambidurai

Government Advocate



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ORDER

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This writ petition has been filed for issuance of writ of mandamus directing the respondents to survey the petitioner's land in S.No.91/2 situated at Uthamapuram Village, Cumbum Town, Uthamapalayam Taluk, Theni District, based on the petitioner's representation dated 01.03.2023.

2. The case of the petitioner is that one of his ancestors, namely Karuppana Thevar @ Vellaisamy Thevar owned punja land in S.No.91, measuring to an extent of 3.67 acres at Uthamapuram Village, Cumbum Town, Uthamapalayam Taluk, Theni District. The said land was bifurcated as S.No. 91/2. According to the petitioner, the aforesaid land is in possession and enjoyment of the petitioner's family from the year 1968 onwards. Due to the family dispute, all of his family members seeks for survey of the land to enjoy the possession peacefully. The petitioner has also paid necessary fee on 24.02.2023. Till date, no steps were taken to survey the land. Without any other alternate remedy, the petitioner has filed this writ petition.

3. On perusal of the documents filed in support of this petition, it is seen that there is a joint patta and the petitioner is a joint pattadhar for the land in S.No.91/2.



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4. 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.

(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 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.



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(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.

(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.

04.01.2024

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

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Order made in
W.P(MD)No.8527 of 2023

Dated:
04.01.2024