



1

W.P.(MD)NO.11796 OF 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.06.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.11796 of 2024 AND

W.M.P.(MD)No.10535 of 2024

Alagammal

... Petitioner

Vs.

1. The Tahsildar,
Dindigul West Taluk,
Dindigul District.

2. The Taluk Surveyor,
Dindigul West Taluk,
Dindigul District.

3. T.Sakkaraipandi
4. Kanthasamy

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 and 2 not to conduct any survey and demarcation of boundaries in the landed property comprised in new survey No.547/43(old survey No.574/5A) situated at Kothapulli Village, Dindigul West Taluk, Dindigul District by considering the petitioner's objections dated 16.05.2024 and 27.05.2024 and for other reliefs.

For Petitioner	: Mr.M.Arun Srivastava
For R-1 & R-2	: Mr.K.Balasubramanian, Special Government Pleader.
For R-3 & R-4	: Mr.D.Venkatesh

* * *



WEB COPY



ORDER

Heard both sides.

2. Sarkkarai Pandi filed O.S.No.46 of 2002 on the file of the Principal District Munsif Court, Dindigul for declaration. The suit was dismissed. Aggrieved by the same, Sarkkarai Pandi filed A.S.No.61 of 2004 on the file of the Principal Sub Court, Dindigul. The first appeal was allowed on 26.06.2006. Aggrieved by the same, Ramu Thevar and Irulayammal filed S.A.No.1073 of 2006. Interim stay was granted on 10.11.2006. The second appeal came to be dismissed as abated on 26.09.2023. In the meanwhile, respondents 3 and 4 filed writ petition before this Court and obtained order for conducting survey. Before the survey authority, the petitioner had taken the stand that survey can be deferred till 09.06.2024 to enable her to obtain restraint order, in the meanwhile.

3. In this background, the present writ petition came to be filed.

4. When the matter was taken up for hearing, the learned



Special Government Pleader clarified that till date no survey has been conducted. The petitioner has been given breathing time to obtain restraint order.

5. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of this writ petition. He pointed out that the patta is a joint patta and that at the instance of the private respondents, survey cannot be conducted. In normal circumstances, this argument would carry weight. But when the third respondent is having decree in his favour and the second appeal had been dismissed as abated, this Court cannot interfere. It is for the petitioner to move this Court and obtain restoration of the second appeal. It is true that the interim order was originally granted in the second appeal. But then, the interim order cannot have any life beyond the dismissal of the second appeal. It is true that the second appeal was dismissed as abated. Therefore, survey proceedings cannot be stayed. The petitioner claims that she is in possession. I am not in a position to decide the said claim. It can be decided elsewhere.

6. I have consistently held that conducting survey cannot by



itself lead to anybody's dispossession. The survey authorities will grant three more weeks time to the petitioner to have the second appeal restored. If at the end of the three weeks the petitioner is unable to obtain restoration of the second appeal, survey can very well be conducted. This writ petition stands disposed of with the aforesaid direction. No costs. Consequently, connected miscellaneous petition is closed.

06.06.2024

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

To:

1. The Tahsildar,
Dindigul West Taluk,
Dindigul District.
2. The Taluk Surveyor,
Dindigul West Taluk,
Dindigul District.



WEB COPY



5

W.P.(MD)NO.11796 OF 2024

G.R.SWAMINATHAN,J.

PMU

W.P.(MD)No.11796 of 2024

06.06.2024