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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

and

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.P.(MD)No.11885 of 2024

and

W.M.P.(MD)Nos.10592 & 10595 of 2024

Megala

: Petitioner

Vs.

1.The Secretary to Government,
Revenue and Disaster Management Department,
Secretariat,
Chennai – 600 009.

2.The Commissioner,
Land Reforms and Administration,
Ezhilagam, Chepauk,
Chennai – 600 005.

3.The District Collector,
Ramanathapuram District,
Ramanathapuram.



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4.The District Revenue Officer,
O/o. District Collectorate,
Ramanathapuram,
Ramanathapuram District.

5.The Revenue Divisional Officer,
Ramanathapuram,
Ramanathapuram District.

6.The Tahsildar,
Keelakarai Taluk,
Ramanathapuram District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the sixth respondent in ந.க.எஸ்.

1/3245/23 நாள்: 23.05.2024, to quash the same as illegal, unconstitutional and consequently direct the respondents 3 and 4 to conduct enquiry regarding fabrication of detailed plan mark and existence of pathway through S.Nos.48/2A1, 48/2A2, 48/8A, Vannankundu Village, Keelakarai Taluk, Ramanathapuram District, within the time stipulated by this Court.



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For Petitioner : Mr.S.Balamurugan
For Respondents : Mr.S.Shaji Bino
Special Government Pleader

ORDER

[Order of the Court was made by **R.SURESH KUMAR, J.**]

The prayer sought for herein is for a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the sixth respondent in ந.க.எஸ்.1 / 3245 / 23 நாள்: 23.05.2024, to quash the same as illegal, unconstitutional and for a consequential direction to the respondents 3 and 4 to conduct enquiry regarding fabrication of detailed plan mark and existence of pathway through S.Nos.48/2A1, 48/2A2, 48/8A, Vannankundu Village, Keelakarai Taluk, Ramanathapuram District.

2.Already there has been a direction by this Court in W.P.(MD)No. 25218 of 2023 on 13.03.2024, to measure the land in question at Vannangundu Village, Thirupullani Firka, Keelakarai Taluk, Ramanathapuram District, where there had been an allegation against the petitioner and others that public pathway has been encroached upon by them.



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3.Pursuant to the said order, the revenue authorities had issued a notice on 23.05.2024, whereby they have planned to survey the land in question as directed by this Court. Therefore, the petitioner and others had been directed to keep ready of the documents and be present for the survey to be conducted. Challenging the said communication issued by the Tahsildar dated 23.05.2024, the present writ petition has been filed.

4.Assailing the said order dated 23.05.2024, learned Counsel for the petitioner would submit that as per the village record which has already been available, the disputed land is in a pathway but it is a patta land and all of a sudden within one day, a new plan has been prepared and that has been shown as the basis for which there has been no supportive evidence and based on such document which according to him is a fraudulent one, if any survey is conducted, that will result in a miscarriage of justice. Therefore, in order to prevent the revenue authorities from surveying the land as indicated in the impugned communication dated 23.05.2024, since this writ petition is filed, indulgence is sought for by the petitioner.



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5.Mr.K.Mahendran, learned Counsel who appeared before this Court has stated that the earlier writ petition has been filed by his client namely K.M.Velu in W.P.(MD)No.25218 of 2023, but, he has not been arrayed as a party in this writ petition. However, only in a writ petition that has been filed by him in W.P.(MD)No.25218 of 2023, the said order dated 13.03.2024, since was passed, pursuant to which only, now the present notice has been issued to survey the land, he is a necessary party to be heard. However, in view of the order that is proposed to be passed in this writ petition, we are not inclined to implead the said K.M.Velu, as one of the party respondent in this writ petition.

6.Heard the learned Special Government Pleader who would submit that eventhough there has been no order passed by this Court, wherever there is a dispute with regard to the land, it is the duty of the revenue department to survey the land and demarcate the boundaries and this is a major duty entrusted with the revenue department. When that being so, such a statutory function cannot be throttled by filing a writ petition and therefore, this writ petition is purely misconceived and it is to be dismissed.



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7.We have considered the rival submissions made by the learned Counsel on either side and have perused the materials available on record.

8.As has been rightly pointed out by the learned Special Government Pleader, it is the statutory duty on the part of the revenue authorities to survey the land and demarcate the boundaries whenever there has been a dispute arising in respect of any land.

9.Moreover, already a private party namely the said K.M.Velu had approached this Court and filed the said writ petition, alleging that the public pathway has been encroached upon and therefore, he sought for measurement of the land and that was ordered by this Court by order dated 13.03.2024. Therefore, pursuant to the said order also, needful action has to be taken by the revenue authorities. Hence, the present impugned notice dated 23.005.2024, issued by the Tahsildar is nothing but an action in compliance of the orders passed by this Court apart from the statutory duty undertaken by the revenue authorities which cannot be found fault with.



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10.In view of the said discussion, the present writ petition fails and therefore, the same is dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

[R.S.K.,J.] & [G.A.M.,J.]

07.06.2024

Neutral Citation : Yes/No

Index: Yes/No

Internet : Yes/No

MR

Note : Issue a copy of this Order by 11.06.2024

Issue a copy of this order to K.M.Velu, the petitioner in W.P.(MD) No. 25218 of 2023.



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To

1.The Secretary to Government,
Revenue and Disaster Management Department,
Secretariat, Chennai – 600 009.

2.The Commissioner,
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Chennai – 600 005.

3.The District Collector,
Ramanathapuram District,
Ramanathapuram.

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O/o. District Collectorate,
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5.The Revenue Divisional Officer,
Ramanathapuram,
Ramanathapuram District.

6.The Tahsildar,
Keelakarai Taluk,



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Ramanathapuram District.

R.SURESH KUMAR, J.

and

G.ARUL MURUGAN, J.

MR

ORDER MADE IN

W.P.(MD)No.11885 of 2024

07.06.2024