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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.07.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.15754 of 2024

Gowri ... Petitioner

Vs.

1. The Tahsildar,
   Kumbakonam Taluk,
   Thanjavur District.

2. The Taluk Surveyor,
   Kumbakonam Taluk,
   Thanjavur District.

3. Pugalenthi ... 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 to survey the land in S.No.43/1A, situated at Nagarasampettai Village, Kumbakonam Taluk, Thanjavur District by considering the challans paid by the petitioner on 22.04.2024 within the stipulated time fixed by this Court.

For Petitioner : Mr.S.Sathyachidambaram

For R-1 & R-2 : Mr.G.V.Vairam Santhosh,
Additional Government Pleader.

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O R D E R

The petitioner has applied to the jurisdictional authority for conducting survey of the petition mentioned lands and for demarcation of the boundaries. Since the authority had not acted upon the petitioner's request, this writ petition came to be filed.

2.This writ petition is disposed of at the admission stage itself. It is open to any aggrieved party to move this Court either by way of review or recall of this order, if there is any suppression of material facts by the petitioner.

3.The Writ Petition is disposed of with the following directions:-

(I) The petitioner is directed to submit his / her application in on-line mode. The survey authority will scrutinize if the application submitted by the petitioner is in order. Patta need not be in the name of the applicant. If patta is in the name of the vendor and mutation has not been effected, still the application can be considered.

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(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.

(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. If any suit is filed, subject to plaint being in order, it shall be numbered immediately. If any interlocutory application is

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filed, it shall be disposed of on merits and in accordance with law within a period of four weeks thereafter.

(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.

(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. If the petitioner wants to put up fencing and if there is any objection from any private party, fencing can be put up only after the petitioner obtains decree from the jurisdictional Civil Court.

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(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.

15.07.2024

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

To:

1. The Tahsildar,
   Kumbakonam Taluk,
   Thanjavur District.

2. The Taluk Surveyor,
   Kumbakonam Taluk,
   Thanjavur District.

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G.R.SWAMINATHAN,J.

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