



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.12.2024

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THE HONOURABLE MRS.JUSTICE N.MALA

W.P.(MD)No.15731 of 2023

Ajmalkhan

... Petitioner

Vs.

1.The Tahsildar,
Paramakudi Taluk Office,
Paramakudi Taluk,
Ramanathapuram District.

2.The Commissioner,
O/o Municipality Office,
Paramakudi Municipality,
Ramanathapuram District.

3.The Surveyor,
Paramakudi Taluk,
Paramakudi,
Ramanathapuram District.

4.Jaqbarnisha

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the third respondent to survey the petitioner's land in T.S.No.45, Ward C, Block 9, Old S.No.223/100, to an extent of 796 square feet situated at 3rd Pallivasal Street, Emaneshwaram, Paramakudi Taluk, Ramanathapuram District and earmarked the boundaries of the properties, based on the petitioner's representation, dated 02.05.2023.



For Petitioner : Mr.K.Yasar Arafath
For R1 & R3 : Mr.A.Kannan
Additional Government Pleader
For R2 & R4 : No Appearance

ORDER

This writ petition has been filed for a direction to the third respondent to survey and earmark the boundaries of the petitioner's land in T.S.No.45, Ward C, Block 9, Old S.No.223/100, to an extent of 796 square feet, at 3rd Pallivasal Street, Emaneshwaram, Paramakudi Taluk, Ramanathapuram District, by considering the petitioner's representation, dated 02.05.2023.

2. The petitioner acquired the aforesaid property under settlement deed, in Document No.1515/2013, executed in his favour by his mother and the revenue records were also mutated in his name. While so, the petitioner came to know that the fourth respondent had encroached into his property and so he gave a representation on 16.12.2022, to the second respondent. The petitioner applied for survey and boundary of his land along with necessary fee. In pursuance of the petitioner's application, the second respondent issued summons on 09.01.2023 and 10.04.2023 and thereafter, no action was taken. The petitioner therefore submitted a detailed representation on 02.05.2023, and even thereafter, no action was initiated, the petitioner therefore filed the above writ petition for the aforesaid relief.



3. With the consent of both learned counsels, this writ petition is taken up for final disposal. If any person is aggrieved by this order, it is open to them 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.

4. This Court in W.P(MD)No.12676 of 2024, dated 14.06.2024 issued certain directions for considering the application for survey and fixing of boundary. Following the said order, the following directions are issued:

(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.

(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.



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(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 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



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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.

(X) The survey authority will conclude the entire exercise one way or the other **within a period of 12 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.

5. With the aforesaid directions, the writ petition stands disposed of. No costs.

10.12.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
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To:

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N.MALA, J.

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