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W.P.(MD)NO.16735 OF 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.07.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.16735 of 2024

Selvaraj

... Petitioner

Vs.

1. The Tahsildar,
Kayathar Taluk, Thoothukudi District.

2. The Head Surveyor,
Kayathar Taluk,
Thoothukudi District.

3. The Inspector of Police,
Kadambur police station,
Kayathar Taluk,
Thoothukudi District.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing respondents 1 and 2 to survey the petitioner's land in new survey No.74/2N to an extent of 0.02.82 sq.mts. respectively situated at Onamakulam Village, Kayathar Taluk, Thoothukudi District and to fix its boundaries as per the revenue records by obtaining adequate police protection from the third respondent police within the period that may be stipulated by this Court.

For Petitioner	: Mr.G.Chezhiyan
For R-1 & R-2	: Mr.D.Sasikumar, Additional Government Pleader.
For R-3	: Mr.A.Albert James, Government Advocate.

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**ORDER**

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



filed, it shall be disposed of on merits and in accordance with

WEB COPY 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.

(X) The survey authority will conclude the entire



exercise one way or the other within a period of six weeks after

WEB COPY 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.

24.07.2024

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

To:

1. The Tahsildar,
Kayathar Taluk, Thoothukudi District.
2. The Head Surveyor,
Kayathar Taluk,
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Kadambur police station,
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G.R.SWAMINATHAN,J.

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