



W.P.(MD) No.21974 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.09.2024

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.21974 of 2024

G.Albert Rajan

.. Petitioner

Vs.

1.The Tahsildar,
Kalkulam Taluk,
Kanyakumari District.

2.The Taluk Surveyor,
Kulachel,
Kanyakumari District.

3.The Assistant Superintendent of Police,
Kulachal Circle,
Kanyakumari District.

4.The Inspector of Police,
Manavalakurichi Police Station,
Kanyakumari District.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, directing the 1st and 2nd respondents to conduct survey in Survey No.405/1 to an extent of 5 cents at Manavalakurichi Village, Kalkulam Taluk, Kanyakumari District and to fix four boundaries as per the petitioner's application, dated 06.08.2024



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and representation, dated 17.08.2024 and the 3rd respondent may be directed to provide adequate police protection for the smooth survey within a stipulated time as may be fixed by this Court.

For Petitioner : Mr.M.Jegadeesh Pandian
For R1 & R2 : Mr.B.Saravanan
Additional Government Pleader
For R3 & R4 : Mr.M.Vaikkam Karnanithi
Government Advocate

ORDER

This writ petition is filed for a mandamus to direct the 1st and 2nd respondents to conduct survey in Survey No.405/1 measuring an extent of 5 cents at Manavalakurichi Village, Kalkulam Taluk, Kanyakumari District and to fix four boundaries as per the petitioner's application, dated 06.08.2024 and representation, dated 17.08.2024 by obtaining adequate police protection from the 3rd respondent police.

2. The property comprised in Survey No.405/1 measuring an extent of 70 cents belonged to Indian Rare Earths Limited Company. Out of which, 12 cents of property was allotted to the workers union of the



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company. Subsequently, on 30.04.2004, one Mary Pesi had purchased 12 cents from the Minerals Works Union President and Treasurer. Out of this 12 cents, the petitioner had purchased 5 cents from the said Mary Pesi under a registered sale deed, dated 30.01.2020 and joint patta was also issued. The property in Survey No.405/1 was not subdivided. In order to get separate patta, the petitioner has approached the 1st respondent and made an application on 06.08.2024, who in turn had forwarded it to the 2nd respondent. When the property was about to surveyed on 09.08.2024, the police officials had prevented the survey as the same was adjacent to the police station. Despite the petitioner having valid registered sale deed and patta, the same were not considered. Once again, the petitioner made an application on 17.08.2024 for surveying the said property. Despite the same has been received by the respondents, they have not taken any steps. Therefore, the petitioner is before this Court.

3. Heard the learned counsel on either side.

4. Considering the request of the petitioner and also the fact that the petitioner has made his representation as early as in August, 2024, a



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Mandamus is issued to the respondents to conduct survey and mark the boundaries in the petition mentioned property. If the police authorities object to the survey, their objection shall be considered and the documents based upon which they prevent the survey shall be called for. After the enquiry, the 3rd respondent shall proceed to pass orders. If the police authorities are not able to prove their right to the property in question, the survey shall be proceeded and any law and order situation or attempt to obstruct the survey by the law enforcement agency, shall be reported to this Court as it is open to them to approach the Civil Court to establish their title. If the police authorities are not able to prove their right to the property in question, the survey shall be proceeded and any law and order situation or attempt to obstruct the survey by the law enforcement agency, shall be reported to this Court as it is open to them to approach the Civil Court to establish their title. In the case of a rejection, a speaking order shall be passed. The aforesaid exercise shall be completed within a period of four (4) weeks from the date of receipt of a copy of this order.



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5. With the above directions, this Writ Petition stands allowed. No costs.

13.09.2024

NCC : Yes/No

Index : Yes/No

Internet : Yes

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To

- 1.The Tahsildar,
Kalkulam Taluk,
Kanyakumari District.
- 2.The Taluk Surveyor,
Kulachel,
Kanyakumari District.
- 3.The Assistant Superintendent of Police,
Kulachal Circle,
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P.T.ASHA, J.

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