



W.P.(MD) No.23447 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.10.2024

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.23447 of 2024

R.Perumal

.. Petitioner

Vs.

1.The Assistant Director of Survey and
Land Records/Personal Assistant (Survey)
to the Collectors of the Districts,
Trichy District, Trichy.

2.The Tahsildar,
Musiri Taluk,
Trichy District.

3.The Taluk Surveyor,
Musiri Taluk,
Trichy District.

4.The Village Administrative Officer,
Peramangalam Village,
Musiri Taluk, Trichy District.

5.P.Perumayee

6.Banu @ Banumathi

.. Respondents



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Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, directing the first respondent to dispose the appeal petition dated 22.08.2024 for conducting appropriate re-survey of the property through the respondents 2 and 3 in respect of the landed property pathway road in survey No. 503/35 being the South North road on southern side 3.6 meters width and on northern side 2.6 meters width and 24.6 meters length of road situated at Maniyampatti Village, Peramangalam Village edge, Musiri Taluk, Trichy District, based on the Lok Adalat award held at Thuraiyur in Lok Adalat Case No.217/2017, dated 09.09.2017 in O.S.No. 60 of 2014 on the file of the District Munsif Court, Thuraiyur.

For Petitioner : Mr.A.Saravanan

For RR1 to 4 : Mr.D.S.Nedunchezhiyan
Government Advocate

ORDER

This writ petition has been filed for a mandamus directing the first respondent to dispose the petitioner's appeal petition dated 22.08.2024



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for conducting appropriate re-survey of the property through respondents 2 and 3 in respect of the landed property pathway road in Survey No. 503/35.

2. It is the case of the petitioner that the property bearing S.No. 503/35 being the south-west road measuring 3.6 metres width on the southern side and 2.6 metres width on the northern side and 24.6 metres in length situate at Maniyampatti Village, Peramangalam Village Edge, Musiri Taluk, Trichy District, is used as a common road. The petitioner would submit that respondents 5 and 6 have unlawfully blocked the common road by putting up sheds and tying their animals etc. The petitioner has filed a suit in O.S.No.60 of 2014 on the file of the District Munsif Court, Thuraiyur against respondents 5 and 6 seeking permanent injunction against their causing blockage of the common road. On 09.09.2017, the suit was posted before the National Lok Adalat at Thuraiyur and both parties filed joint undertaking memo to the effect that the common pathway will not be blocked in any manner. Based on the joint undertaking memo, an award was also passed by the Lok Adalat.



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However, unmindful of the award, respondents 5 and 6 once again started obstructing the use of the common pathway. Therefore, the petitioner had filed E.P.No.4 of 2022 for the arrest of respondents 5 and 6. In the execution petition, respondents 5 and 6 executed an undertaking mutchalika expressing their apology. Recording the same, the execution petition was closed. Even thereafter, respondents 5 and 6 continued to obstruct the usage of the common road. Therefore, the petitioner had taken out an application for survey and demarcating the common pathway. Though the officials had visited the place, the demarcation was not properly done to the actual width of the road at both ends and the petitioner's objections were not taken note of. Therefore, the petitioner sent an appeal petition seeking re-survey of the properties. Since that was not disposed of, the present writ petition is filed.

3. Heard the learned counsel on either side.

4. The conduct of respondents 5 and 6, despite orders of the civil Court starring on their face is contumacious. This Court is aware of the



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fact that the orders have been passed even without issuing notice to respondents 5 and 6. However, since there is an award passed by the Lok Adalat and orders are passed in the execution proceedings, where respondents 5 and 6 have given an undertaking, as before the Lok Adalat and the request of the petitioner is only to demarcate the very same property which is a common road, no prejudice would be caused to respondents 5 and 6, if they are not heard. The petitioner has also expressed reasons as to why he requires a fresh re-survey. Therefore, considering the same, a mandamus is issued to the first respondent to dispose of the petitioner's appeal petition dated 22.08.2024. Since the authorities are bound by orders of the civil Court, a mandamus is also issued to respondents 2 and 3 directing re-survey and they will also be entitled to police protection, which shall be produced by the jurisdictional police, in case a request is sought. The aforesaid exercise shall be completed before 22.10.2024.

5. With the above observations and direction, this Writ Petition is allowed. No costs.



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6. Post the matter 'for reporting compliance' on 22.10.2024.

03.10.2024

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

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to the Collectors of the Districts,
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P.T.ASHA, J.

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