



W.P(MD)No.23787 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.10.2024

CORAM :

THE HON'BLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.23787 of 2024

Chidambaram

... Petitioner

Vs

1. The Tahsildar,
Thiruvonam Taluk Office,
Thiruvonam,
Thanjavur District.

2. The Taluk Surveyor,,
Thiruvonam Taluk Office,
Thiruvonam,
Thanjavur District.

3. Ulaganathan

4. V. Pitchaimuthu

5. Kasiammal

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus restraining the respondents 1 and 2 from in any manner conducting any survey in respect of the property comprised in Old Survey No.293/2 A 2 B, New



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Survey No. 293/2A2 and 2 B2 of an extent of 1.67 1/2 acres situated at Venkarai Village till the outcome of the civil suit filed by the petitioner in O.S.No.233/2024 on the file of the learned Sub Court, Pattukottai on the basis of the petitioner's representation, dated 19.09.2024.

For Petitioner : Mr.B.Jameel Arasu

For R1 & R2 : Mr.D.S.Nedunchezian
Government Advocate

ORDER

This Writ Petition has been filed seeking a direction to restrain the respondents 1 and 2 from conducting survey in the property comprised in Old Survey No.293/2 A 2 B (New Survey Nos. 293/2A2 and 2 B2) to an extent of 1.67 1/2 acres situated at Venkarai Village till the outcome of the civil suit filed by the petitioner in O.S.No.233/2024 on the file of the learned Sub Court, Pattukottai.

2.The learned Counsel appearing for the petitioner claims that the petitioner is the owner of the subject property, which was purchased on 19.10.1993. However, one P.Karuppaiah has filed a writ petition in



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W.P(MD)No.17345 of 2024 before this Court seeking a direction to conduct survey in the said property based on the sale deed, dated 05.11.1993. This Court by order dated 30.07.2024, has issued a direction to the first respondent/Tahsildar, Thiruvonam Taluk, to conduct a survey on the said property based on the application of the said Karuppaiah. Thereafter, the petitioner herein has submitted a representation on 19.09.2024 not to conduct survey pending the suit in O.S.No.233 of 2024, before the Sub Court, Pattukottai and has filed this writ petition.

3.It appears that the petitioner has filed the above suit as against the respondents 3 to 5 seeking relief of declaration that the sale deed executed in respect of the above said property in Document No.53/2024, dated 10.01.2024 and Document Nos.152/24, dated 03.02.2024 are null and void.

4.The learned Government Advocate takes notice for the respondents 1 and 2 and submits that based on the objections raised by the petitioner herein, the official respondents have not conducted any survey in the subject property so far. However, he has admitted that an order has been passed by this Court in W.P(MD)No.17345 of 2024, dated



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30.07.2024, directing the respondent therein to conduct a survey.

According to him, based on this order, the official respondents have attempted to conduct a survey, however, based on the petitioner's objections, the survey officials did not proceed with the survey.

5.This Court has considered the rival submissions made and also perused the materials placed on record.

6.The petitioner claiming to be the owner of the subject property has filed this petition based on the suit filed by him in O.S.No.233 of 2024, before the Sub Court, Pattukottai. The suit was filed as against the private respondents herein seeking the relief of declaration to declare the Document No.53/2024, dated 10.01.2024 and Document No.152/24, dated 03.02.2024 are null and void. The petitioner has not added the said Karuppaiah, who is the petitioner in W.P(MD)No.17345 of 2024 as a party to this petition and also not placed the relevant documents before this Court. Moreover, the petitioner claims that he is the owner of the property and he has purchased the property on 19.10.1993. The affidavit filed by the petitioner does not disclose the details with regard to the mode of purchase of the property by the petitioner and from whom it was



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purchased. Based on the vague statements made in the affidavit filed in support of this petition, this Court is not inclined to entertain this petition on the ground that the petitioner has filed a suit to declare certain documents as null and void.

7.This Court is not appreciating the manner, in which, the survey officials have not conducted the survey despite the orders of this Court passed in W.P(MD)No.17345 of 2024. The petitioner has enclosed the copy of the order passed by this Court in W.P(MD)No.17345 of 2024. This Court has disposed the said writ petition 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.

(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.



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(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 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 service of notice on the interested persons.*

(XI) *A copy of the survey report along with sketch will be served on the parties."*

8.This Court, while disposing the said writ petition has held that an



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enquiry has to be conducted by the survey officials by examining the objections if any raised by the adjacent land owners/interested persons and to consider the same. Section 10 of Tamil Nadu Survey of Boundaries Act contemplates such an enquiry before conducting a survey. In the event if anybody is raising objections without any valid reasons, it is not mechanically to defer the survey by the survey officials. At the same time, conducting a survey and fixing boundaries does not confer any title on any parties and therefore, this Court is not appreciating the manner, in which, the survey officials have not conducted the survey even after the orders of this Court, dated 30.07.2024.

9.This Court, while disposing the said writ petition, has directed the survey officials to conduct an enquiry and to consider the objections if any raised. Therefore, if the petitioner is having any grievance, he can address the grievance before the survey officials by raising his objections and the survey officials shall consider the same in accordance with section 10 of the Act. Mere filing of a suit does not prevent the survey officials from conducting a survey.



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10. Accordingly, this Writ Petition is dismissed. No costs.

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

LR

To

1. The Tahsildar,
Thiruvonam Taluk Office,
Thiruvonam,
Thanjavur District.

2. The Taluk Surveyor,,
Thiruvonam Taluk Office,
Thiruvonam,
Thanjavur District.



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B.PUGALENDHI, J.

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