



W.P.(MD)No.23552 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.11.2024

CORAM

THE HONOURABLE MRS.JUSTICE N.MALA

W.P.(MD)No.23552 of 2023

G.K.Kalaiaarasy

... Petitioner

Vs.

1.The Thasildar,
Kariyapatti Taluk,
Virudhunagar District.

2.The Taluk Head Surveyor,
Kariyapatti Taluk,
Virudhunagar District.

3.The Village Administrative Officer,
M.Eluppaikulam Village,
Kariyapatti Taluk,
Virudhunagar District.

4.P.Kanthasamy

5.M.Seethalakshmi
(R5 impleaded vide Court order dated
13.11.2024 in W.M.P(MD)No.231224 of
2023)

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents 1 and 2 to survey the petitioner's land measuring an extent of 93 cents, comprised in S.No.66/5C,



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situated in M.Eluppaikulam Village, Kariyapatti Taluk, Virudhunagar District on the basis of the petitioner's application, dated 22.11.2022 within the period of stipulated time given by this Court.

For Petitioner : Mr.B.Muneeswaran

For R1 to R3 : Mr.A.Kannan
Additional Government Pleader

For R4 & R5 : Mr.V.P.Rajan

ORDER

This writ petition has been filed for a direction to the respondents 1 and 2 to survey the petitioner's land in S.No.66/5 to an extent of 93 cents at M.Eluppaikulam Village, Kariyapatti Taluk, Virudhunagar District, by considering the petitioner's application, dated 22.11.2022.

2. The petitioner as the owner of the aforesaid land obtained patta in Patta No.304 and she was in peaceful possession and enjoyment of the property. The petitioner with a view to secure her property wanted to put up fence. The petitioner therefore gave an application to the first respondent on 22.11.2022 to survey the land and mark the four boundaries and she paid the necessary charges for the same. While so, the fourth respondent gave objection to the



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survey citing the pendency of civil suit in O.S.No.105 of 2023. According to the petitioner, the aforesaid land is not the subject property of the suit. As the respondents 1 to 3 did not take any action on the petitioner's application, the petitioner filed the writ petition for the aforesaid relief.

3. With the consent of both learned counsels, this writ petition is disposed of at the admission stage itself. 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.



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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



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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.



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(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.

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

13.11.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
SN

To:

- 1.The Thasildar,
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- 2.The Taluk Head Surveyor,
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- 3.The Village Administrative Officer,
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N.MALA, J.

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