



W.P(MD)No.26265 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 04.11.2024

CORAM

THE HONOURABLE MRS.JUSTICE N.MALA

W.P(MD)No.26265 of 2024

Palaniappan

... Petitioner

Vs.

1.The Tahsildar,
Alangudi Taluk,
Pudukottai District.

2.The Taluk Head Surveyor,
Alangudi Taluk,
Pudukottai District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to conduct survey and earmark the four boundary of the land in S.No.120/15A1 of an extent of 0.16.06 Ares, S.No.120/14A2B of an extent of 0.0.3 Ares and S.No.120/15B of an extent of 0.3 Ares situated at Kothamangalam North, Alangudi Taluk, by considering the petitioner's application dated 30.08.2024, within the time limit that may be fixed by this Court.

For Petitioner : Mr.M.Karthikeya Venkitachalapathy



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For Respondents : Mr.A.Kannan
Additional Government Pleader

ORDER

This writ petition has been filed to direct the respondents to conduct survey and earmark the four boundary of the land comprised in S.No.120/15A1 to an extent of 0.16.06 Ares, S.No.120/14A2B to an extent of 0.0.3 Ares and S.No.120/15B to an extent of 0.3 Ares, situated at Kothamangalam North, Alangudi Taluk, by considering the petitioner's application dated 30.08.2024.

2. According to the petitioner, the subject property situated at Kothamangalam North, Alangudi Taluk are the petitioner's ancestral properties. All revenue records including patta with regard to the subject property stands in the name of the petitioner. The petitioner constructed a commercial complex with asbestos roof in the subject property and rented them to various persons. The petitioner had also paid property tax for the said property without any default. The petitioner submitted an online application on 30.08.2024 before the first respondent to survey his lands and demarcate the four boundaries. He had also paid necessary



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charges for the same. However, no action was taken to conduct the survey. In the meanwhile, the petitioner received notice from the Block Development Officer, Thiruvarangulam Panchayat Union, stating that the petitioner had encroached upon land in Survey Nos.121/1 and 122/2 and directed him to remove the same. However, the land mentioned in the said notice does not belong to the petitioner. Therefore according to the petitioner, if the survey was conducted based on his application, the truth regarding the alleged encroachment would come to light. Hence, the petitioner approached this Court seeking 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:



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(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.

(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.



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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



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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 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.

04.11.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To
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Alangudi Taluk,
Pudukottai District.
- 2.The Taluk Head Surveyor,
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N.MALA, J.

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