



W.P.(MD)No.26916 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.11.2024

CORAM

THE HONOURABLE MRS.JUSTICE N.MALA

W.P.(MD)No.26916 of 2024

A.Selvaraj

... Petitioner

Vs.

1.The Tahsildar,
Oddappidaram Taluk,
Thoothukudi District.

2.The Sub Inspector,
Revenue Department,
Vedanatham Firka,
Oddappidaram Taluk,
Thoothukudi District.

3.Antony Lucas

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the respondents 1 and 2 to conduct survey and measurement in respect of the properties in S.No.276/2A, 291/1 and 291/2 at Keela Arasaradi Village, Oddappidaram Taluk, Thoothukudi District and to issue survey report to the petitioner within a period stipulated by this Court.

For Petitioner : Mr.M.Mohammed Sherbudeen

For R1 & R2 : Mr.R.Ragavendran
Government Advocate



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ORDER

This writ petition has been filed for a direction to the respondents 1 and 2 to conduct survey and measurement in respect of the properties in S.No.276/2A, 291/1 and 291/2 at Keela Arasaradi Village, Oddappidaram Taluk, Thoothukudi District and to issue survey report to the petitioner.

2. The petitioner as the owner of the property in S.No.276/2A, 291/1 and 291/2 at Keela Arasaradi Village, Oddappidaram Taluk, Thoothukudi District was issued patta in Patta No.1515. He purchased the same from one Suresh under sale deed dated 28.08.2024. The petitioner in order to improve his property applied for survey and demarcation of boundaries of his property in the aforesaid survey numbers and he paid the necessary charges for the same. The first respondent on receipt of the petitioner's application directed the second respondent to comply with the application. The second respondent therefore issued summons to the petitioner, third respondent and his siblings. The third respondent filed a suit in O.S.No.58 of 2024 on the file of the District Munsif Court, Oddappidaram for bare injunction in respect of the property in S.No.276/2A. Though the second respondent issued survey notice fixing the date of survey as 25.10.2024, on the objections of the third respondent, the



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second respondent did not conduct the survey. Therefore, the petitioner filed the above writ petition for the aforesaid relief.

3. The learned counsel for the petitioner submitted that the subject matter of the suit in O.S.No.58 of 2024 is only in S.No.276/2A and therefore, a direction may be issued to the respondents to conduct survey in S.Nos.291/1 and 291/2.

4. The learned Government Advocate for the respondents 1 and 2 submitted that reasonable time may be granted for conducting survey.

5. From a reading of the plaint filed in the type set of papers, it is seen that the subject matter of the suit in O.S.No.58 of 2024 is only in S.No.276/2A. Therefore, the prayer of the learned counsel for the petitioner for a direction to the respondents 1 and 2 to conduct the survey in respect of the property in S.Nos.291/1 and 291/2 can be countenanced.

6. 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.



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7. 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.

(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 six 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.



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(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.

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

12.11.2024

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



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To:

- 1.The Tahsildar,
Oddappidaram Taluk,
Thoothukudi District.

- 2.The Sub Inspector,
Revenue Department,
Vedanatham Firka,
Oddappidaram Taluk,
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N.MALA, J.

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