



W.P.(MD)No.26850 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.11.2024

CORAM

THE HONOURABLE MRS.JUSTICE N.MALA

W.P.(MD)No.26850 of 2024

M.Amjathali

... Petitioner

Vs.

1.The Thasildar,
Thiruvadanai Taluk Office,
Thiruvadanai Taluk,
Ramanathapuram District.

2.The Head Surveyor,
Thiruvadanai Taluk Office,
Thiruvadanai Taluk,
Ramanathapuram District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the 1st respondent to direct the 2nd respondent to survey the petitioner's property in Patta No.2561 in New Survey No.54/1A1A1D, Old Survey No.54/1A1 an extent of 1840.78 sq. meter of Thondi Village, Thiruvadanai Taluk, Ramanathapuram District by considering his representation, dated 22.08.2024 and for other such reliefs within the period stipulated by this Court.



WEB COPY



W.P.(MD)No.26850 of 2024

For Petitioner : Mr.S.Atham Ali

For Respondents : Mr.M.Muthumanikkam
Government Advocate

ORDER

This writ petition has been filed for a direction to the 1st respondent to direct the 2nd respondent to survey the petitioner's property in Patta No.2561 in New Survey No.54/1A1A1D, Old Survey No.54/1A1 an extent of 1840.78 sq. meter of Thondi Village, Thiruvadanai Taluk, Ramanathapuram District by considering his representation, dated 22.08.2024.

2. The petitioner purchased the subject property under a registered sale deed, dated 09.01.2023 and obtained patta in patta no.2561. Since then, the petitioner was in possession and enjoyment of the same without any let or hindrance. As the petitioner's adjacent land owner was creating nuisance and also as 3rd parties were trying to encroach upon the petitioner's property, the petitioner proposed to lay fence to secure his property. Therefore, the petitioner submitted an application on 20.08.2024, to the 1st respondent and also paid necessary fees for conducting survey and demarcation of the said property. Since the respondents did not take any steps, the petitioner was constrained to file the above writ petition.



W.P.(MD)No.26850 of 2024

WEB COPY

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.

(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.



W.P.(MD)No.26850 of 2024

(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 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,



W.P.(MD)No.26850 of 2024

the same will be taken note of.

WEB COPY

(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 eight (8) 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.



W.P.(MD)No.26850 of 2024

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

12.11.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
gbg

To:

- 1.The Thasildar,
Thiruvadanai Taluk Office,
Thiruvadanai Taluk,
Ramanathapuram District.
- 2.The Head Surveyor,
Thiruvadanai Taluk Office,
Thiruvadanai Taluk,
Ramanathapuram District.



WEB COPY



W.P.(MD)No.26850 of 2024

N.MALA, J.

gbg

W.P.(MD)No.26850 of 2024

12.11.2024