



WP(MD)No.27532 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.11.2024

CORAM

THE HON'BLE MRS.JUSTICE N.MALA

W.P(MD)No.27532 of 2024

Francis

...Petitioner

Vs.

1.The District Collector,
District Collector Office,
Ramanathapuram District,
Ramanathapuram.

2.The Tahsildar,
Tahsildar Office,
Paramakudi Taluk,
Ramanathapuram District.

3.The Surveyor,
Paramakudi Taluk,
Ramanathapuram District.

...Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India to issue a writ of mandamus directing the 2nd and 3rd respondents herein to conduct survey and fix boundaries in respect of Survey No. 205/1, Patta No.609 extent of 57 ½ cents, situated at Emaneswaram Village, Paramakudi Taluk, Ramanathapuram District as per document No.408/1993, dated 08.03.1994 considering the petitioner's representation dated 16.11.2023 and required fees paid on 17.11.2023 within time stipulated by this Court.

For Petitioner : Mrs.A.Banumathy

For Respondents : Mr.A.Kannan

Additional Government Pleader



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ORDER

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This Writ Petition is filed for issuance of writ of mandamus directing the 2nd and 3rd respondents herein to conduct survey and fix boundaries in respect of Survey No.205/1, Patta No.609 extent of 57 ½ cents, situated at Emaneswaram Village, Paramakudi Taluk, Ramanathapuram District as per document No.408/1993, dated 08.03.1994, considering the petitioner's representation dated 16.11.2023, and required fees paid on 17.11.2023, within time stipulated by this Court.

2. The subject property was originally purchased by the petitioner's father under sale deed dated 08.03.1993. After the demise of the petitioner's father, the petitioner was in possession and enjoyment of the said property. The petitioner in order determine and fix the boundaries of his lands, filed an application to the first respondent on 16.10.2023, and paid requisite fees on 17.11.2023, for conducting survey and for fixing the boundaries as per the sale deed dated 08.03.1993. As the respondents did not initiate any action on the petitioner's application, the petitioner filed the above Writ Petition for the aforesaid relief.



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3. The learned Additional Government Pleader submits that the petitioner did not enclose the relevant documents along with his application and therefore, survey could not be conducted.

4. The learned counsel for the petitioner submits that the petitioner would submit necessary documents and a direction may be issued to the respondents to conduct survey within a reasonable time.

5. I have given my anxious consideration to the rival submissions made on either side. With the consent of both counsels, the writ petition is disposed of at the admission stage itself.

6. Considering the above stated facts, I am of the view that the respondents cannot be blamed for not conducting the survey of the subject properties as it was the petitioner who failed to produce the necessary documents. In view of the same, I consider it appropriate to direct the petitioner to submit the necessary documents within a period of two weeks from the date of receipt of a copy of this order. On receipt of the necessary documents, the respondents shall conduct the survey by complying with the following directions:

(I) The petitioner is directed to submit his / her



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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. But the survey will be conducted only after a period of six weeks so that the objector can move the concerned Court for injunction.



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If before the proposed date of survey, the objector is unable to obtain any injunction order, the survey can very well go on.

(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 as per seniority of application after service of notice on the interested persons.

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

7. With the above directions, this Writ Petition is disposed of. No costs.

19.11.2024

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



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To,

1.The District Collector,
District Collector Office,
Ramanathapuram District,
Ramanathapuram.

2.The Tahsildar,
Tahsildar Office,
Paramakudi Taluk,
Ramanathapuram District.

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N.MALA,J.

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