



WP(MD)No.27534 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.27534 of 2024

M.Pandi

...Petitioner

Vs.

1.The District Collector,
Madurai District,
Madurai.

2.The Assistant Direcot & PA to
District Collector (Land Survey),
District Land Survey Office,
Madurai Collectorate,
Madurai.

3.The Superintendent of Police,
Madurai District,
Madurai.

4.The Tahsildar,
Usilampatti Taluk,
Madurai District.

5.The Survey Inspector,
Usilampatti Maintenance Division,
Usilampatti Taluk Office,
Usilampatti,
Madurai District.

6.The Sub Inspector of Survey,
Usilampatti Taluk Office,
Usilampatti,
Madurai District.



WP(MD)No.27534 of 2024

7.The Inspector of Police,
Chekkanurani Police Station,
Madurai District.

8.Muthlakshmi

...Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India to issue a writ of mandamus directing the 4th to 6th respondents to act on the basis of the direction issued by the second respondent in O.M.A5/3850/2024 dated 08.07.2024 and resurvey the land comprised in 298/2B after show the acceptable check measurement survey stone from the western side of the 298/2A and struck out the survey report and sketch given by the fourth respondent and direct the seventh respondent not to compel to remove the bund in 298/2B and direct the sixth respondent correctly demarcate the survey in R.S.No.298/2B.

For Petitioner : Mr.R.Sethuraman

For R1,R2,R4 to R6 : Mr.A.Kannan
Additional Government Pleader

For R3 & R7 : Mr.K.Gnana Sekaran
Government Advocate(Crl.side)

ORDER

The petitioner filed this Writ Petition for a direction to the 4th to 6th respondents to act on the basis of the direction issued by the second respondent in O.M.A5/3850/2024 dated 08.07.2024 and for other reliefs.



WP(MD)No.27534 of 2024

WEB COPY

2. The land comprised in S.No.298/2 to an extent of 1 acre 8 cents belonged to the petitioner's forefather; It was orally partitioned between the petitioner and his paternal uncle; Western portion of 54 cents was allotted to the petitioner's paternal uncle and the eastern side of 54 cents was allotted to the petitioner. Ever since the date of partition, the petitioner is in peaceful possession and enjoyment of the property. The petitioner was granted patta in patta No.2714, while so, the western side of 54 cents was purchased by the 8th respondent and since the eighth respondent tried to encroach the land of the petitioner, the petitioner approached the fifth respondent for survey and demarcation of his boundaries.

3. The petitioner filed an application along with the necessary fees for conducting survey. On 07.04.2024, the sixth respondent without following the provisions of Tamil Nadu Survey and Boundaries Act, conducted a survey and gave a survey certificate and sketch on 07.05.2024. Aggrieved by the survey certificate and sketch issued by the sixth respondent, the petitioner approached the first respondent/District Collector for rectification and to correct the demarcation of his land in



WP(MD)No.27534 of 2024

S.No.298/2B. The second respondent sent a communication to the sixth respondent to take necessary action on the petitioner's petition and in spite of the same, the sixth respondent did not take any action and therefore, the petitioner filed the above Writ Petition for the aforesaid relief.

4. The learned Additional Government Pleader submitted that admittedly, survey was conducted as per the petitioner's application and survey certificate was issued by the sixth respondent along with sketch on 07.05.2024. The learned Additional Government Pleader submitted that the Writ Petition should not be entertained inasmuch as the petitioner has not exhausted the alternative remedy of an appeal to the second respondent under Section 12 of the Tamil Nadu Survey and Boundaries Act.

5. The learned Additional Government Pleader further submitted that the petitioner sent a representation on 18.10.2024, to the first respondent, who forwarded the same to the second respondent, who in turn forwarded the same to the respondents 4 to 6. Based on the communication of the second respondent to the respondents 4 to 6, the



WP(MD)No.27534 of 2024

petitioner filed the above Writ Petition without exhausting the statutory an appeal under the Tamil Nadu Survey and Boundaries Act. The learned Additional Government Pleader therefore submitted that the petitioner should be directed to exhaust the statutory remedy before the second respondent.

6. Heard both sides and perused the materials available on record.

7. Admittedly, the sixth respondent conducted a survey in pursuance of the petitioner's application and issued a survey certificate and sketch to the petitioner. As rightly pointed out by the learned Additional Government Pleader, under Section 12 of the Tamil Nadu Survey and Boundaries Act, an appeal lies to the second respondent against the sixth respondent's certificate and sketch. The petitioner gave a representation to the first respondent, which was forwarded to the respondents 4 to 6. As no appeal is preferred by the petitioner under Section 12 of the Tamil Nadu Survey and Boundaries Act and as no justifiable reasons are made out for by-passing the statutory appeal, the Writ Petition cannot be entertained. Be that as it may, the petitioner is given liberty to file an appeal in proper format to the second respondent,



WP(MD)No.27534 of 2024

within a period of two weeks from the date of receipt of a copy of this order. If the appeal is filed within the stipulated time, the second respondent shall entertain the appeal without reference to limitation and consider the same on merits and pass orders in accordance with law. Needless to state that if the appeal is filed beyond the stipulated period, the second respondent is at liberty to consider the issue of limitation also and pass orders on merits and in accordance with law.

8. 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



WP(MD)No.27534 of 2024

To,

1.The District Collector,
Madurai District,
Madurai.

2.The Assistant Director & PA to
District Collector (Land Survey),
District Land Survey Office,
Madurai Collectorate,
Madurai.

3.The Superintendent of Police,
Madurai District,
Madurai.

4.The Tahsildar,
Usilampatti Taluk,
Madurai District.

5.The Survey Inspector,
Usilampatti Maintenance Division,
Usilampatti Taluk Office,
Usilampatti,
Madurai District.

6.The Sub Inspector of Survey,
Usilampatti Taluk Office,
Usilampatti,
Madurai District.

7.The Inspector of Police,
Chekkanurani Police Station,
Madurai District.



WEB COPY



WP(MD)No.27534 of 2024

N.MALA,J.

CM

W.P(MD)No.27534 of 2024

19.11.2024