



W.P.(MD).No.21886 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.11.2024

CORAM

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD).No.21886 of 2017

and

W.M.P.(MD)No.18205 of 2017

Mariappan

...Petitioner

Vs

1.The District Collector,
Thanjavur District,
Thanjavur.

2.The District Revenue Officer,
Thanjavur District,
Thanjavur.

3.The Revenue Divisional Officer,
Pattukottai,
Thanjavur District.

4.The Assistant Director of Survey and Land Records,
District Survey Office,
Thanjavur.

5.The Inspector, (Maintenance),
Survey and Records,
Pattukottai Division,
Pattukottai,
Thanjavur District.

6.M.Kesavan

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorari, calling for the records relating to the impugned proceeding of the respondent dated 14.11.2017 in Na.Ka.No.37/2017 (Aa) and quash the same.

For Petitioner : Mr.C.Bharathi
For R-1 to R-5 : Mr.J.K.Jeyaselan
Government Advocate
For R-6 : Mr.G.Thiruvarutselvan

ORDER

Heard Mr.C.Bharathi, learned counsel for the petitioner, Mr.J.K.Jeyaselan, learned Government Advocate for the respondents 1 to 5 and Mr.G.Thiruvarutselvan, learned counsel for the 6th respondent.

2. This Writ Petition has been filed challenging the notice dated 14.11.2017 issued by the fifth respondent herein.

3. A perusal of the notice dated 14.11.2017 reveals that it was issued pursuant to the direction issued by this Court in W.P.(MD)No. 18896 of 2017, dated 11.10.2017. A perusal of the order dated 11.10.2017 indicates that the petitioner had approached this Court



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seeking consideration of his representation dated 16.06.2015, which was submitted to the second respondent, the Assistant Directorate of Survey and Land Records, Thanjavur District. It is the case of the sixth respondent that he had originally made an application for surveying and demarcating the boundaries of his land. Not satisfied with the initial survey, he preferred an appeal before the third respondent herein under Section 11 of the Tamil Nadu Survey and Boundaries Act, 1923. The said appeal was allowed and further survey of the land was conducted. However, dissatisfied with the further survey, he filed a second appeal under Section 12(A) of the said Act. Pursuant to this appeal, a notice was issued, and therefore, there is no infirmity in the said notice.

4. At this juncture, the learned Government Advocate submitted that it was the fourth time the sixth respondent was seeking a survey to mark the boundaries.

5. It is an admitted fact of the sixth respondent that he had initially made an application, and after due notice to the concerned parties, a survey was conducted. Being aggrieved by the order, he filed an appeal with the third respondent, who vide order dated 09.03.2015, directed a



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resurvey of the land. Consequently, the land was resurveyed, and boundaries were marked. Nevertheless, still dissatisfied with the survey and boundary marking, he preferred a second appeal. Section 12-A of the Act provides for a second appeal against the order passed by the appellate authority under Section 11 of the Act. Furthermore, the provisions of Section 11 of the Act, insofar as it apply to such appeal, shall also be applicable to appeals under Section 12-A of the Act. In the present case, the sequence of facts reveals that the Survey Officer, exercising powers under Section 10 of the Act, conducted a survey to resolve the dispute between the parties. However, being dissatisfied with the survey, the sixth respondent filed an appeal under Section 11 of the Act. The appellate authority, under Section 11 of the Act, passed an order accepting the sixth respondent's claim and directing a resurvey of the land, which was subsequently conducted. The appeal under Section 12-A of the Act is available only against an order passed under Section 11 of the Act. Since the sixth respondent was satisfied with the order passed under Section 11 of the Act, he participated in the subsequent survey conducted by the Survey Officer as directed by the appellate authority. If the sixth respondent is aggrieved, he should not be allowed to invoke Section 10 of the Act again, as granting such liberty would cause



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prejudice to other individuals who have complied with the notice of service issued under Sections 9 or 10 of the Act.

6. Therefore, I am of the view that if, pursuant to an appellate order, a resurvey is conducted and an individual remains dissatisfied, they must approach the civil court to seek redress for their grievances regarding the property in question. They cannot be permitted to repeatedly invoke the provisions of the Tamil Nadu Survey and Boundaries Act, thereby perpetuating a dispute that unjustly burdens adjacent property owners.

7. In view of the above, the Writ Petition is allowed and the impugned notice dated 14.11.2017 is set aside. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

27.11.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr



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K.KUMARESH BABU, J.

Nsr

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