



WP(MD)No.27548 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.27548 of 2024

Pushpam

...Petitioner

Vs.

1.The Tahsildar,
Tahsildar Office,
Dindigul East Taluk,
Dindigul District.

2.The Firka Surveyor,
A.Vellodu Village,
Dindigul East Taluk,
Dindigul District.

...Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India to issue a writ of mandamus directing the respondents to survey the land situated in New Survey No.671/9B1A in patta No.8691 at A.Vellodu Village, Dindigul East Taluk, Dindigul District to the extent of 55.26 cents within a time frame stipulated by this Court.

For Petitioner : Mr.S.A.Ajmalkhan

For Respondents : Mr.A.Kannan

Additional Government Pleader

ORDER

This Writ Petition is filed for issuance of writ of mandamus directing the respondents to survey the land situated in New Survey No. 671/9B1A in patta No.8691 at A.Vellodu Village, Dindigul East Taluk, Dindigul District to the extent of 55.26 cents within a time frame stipulated by this Court.



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2. The petitioner, as a second wife of one Jeganathan, who was the owner of the land in S.No.671/9B1 to an extent of 88.42 cents, in A.Vellodu Village, Dindigul East Taluk, Dindigul District, filed a suit for partition of the said property in O.S.No.312 of 2014, before the Additional Sub Court, Dindigul, claiming 5/8th share in the subject property. The said suit was decreed on 05.02.2016 and the petitioner's 5/8th share was declared by the court. Thereafter, the petitioner filed I.A.No. 257 of 2017 for final decree. The trial court passed the final decree on 06.04.2018. In pursuance of the final decree proceedings, the petitioner was allotted the land to an extent of 55.26 cents and the property was subsequently subdivided as S.No.671/9B1. The petitioner was also issued with patta in Patta No.8691 for the said extent. On 25.04.2024, the peititoner submitted an application before the first respondent along with necessary charges for survey and demarcation of the land.

3. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself. It is open to any aggrieved party 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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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 the 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.

(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



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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 **as per seniority** after service of notice on the interested persons, since the petitioner has not given any representation to the respondents.

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

5. With the aforesaid directions, the Writ Petition stands disposed of. No costs.

19.11.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

CM

To,

1.The Tahsildar,
Tahsildar Office,
Dindigul East Taluk,Dindigul District.

2.The Firka Surveyor,
A.Vellodu Village,Dindigul East Taluk,
Dindigul District.



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N.MALA,J.

CM

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