



W.P.(MD) No.28294 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.11.2024

CORAM:

THE HONOURABLE MRS.JUSTICE N.MALA

W.P.(MD) No.28294 of 2024

Rathinasabhapathi

...

Petitioner

-vs-

1.The Tahsildar,
Office of the Tahsildar,
Alangulam Taluk,
Tenkasi District.

2.The Head Surveyor,
Office of the Tahsildar,
Alangulam Taluk,
Tenkasi District.

3.The Inspector of Police,
Kadayam Police Station,
Tenkasi District.

4.Madasamy

5.Pandiaraj

6.Thangapandi

7.Mariselvam

8.Rajkumar

...

Respondents



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PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a writ of mandamus, directing the respondents No.1 and 2 to survey the land and fix the boundary stones in connection with Survey No.1243/11, situated at Venkadampatti-2 Village, Alangulam, Tenkasi District, with police protection at the time of survey of the land by considering the petitioner's online Application No.2024/0123/34/002105, dated 11.07.2024.

For Petitioner : Mr.D.S.Haroon Rasheed

For Respondents 1 & 2 : Mr.R.Ragavendran,
Govt. Advocate.

For Respondent 3 : Mr.K.Gnanasekaran,
Govt. Advocate (Crl.Side)

ORDER

The petitioner has filed this Writ Petition for issuance of a writ of mandamus, directing the respondents No.1 and 2 to survey the land and fix the boundary stones in connection with Survey No.1243/11, situated at Venkadampatti-2 Village, Alangulam, Tenkasi District, with police protection at the time of survey of the land, by considering the petitioner's online Application No.2024/0123/34/002105, dated 11.07.2024.



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2. The petitioner acquired the subject property in Survey No. 1243/11, situated at Venkadampatti-2 Village, Alangulam, Tenkasi District, to an extent of 0.7.00 Ares under a registered partition deed, dated 30.09.2011. The petitioner was also issued with a patta vide Patta No. 6346/2011 by the first respondent. As there was some trouble from the adjacent land owners, who are in no way connected with the subject property, the petitioner made an application before the respondents 1 and 2 on 11.07.2024 for survey and fixation of boundaries of the subject land. The petitioner also paid necessary fee for the same. As no action was taken by the respondents on the petitioner's application, the petitioner filed the above Writ Petition for the aforesaid relief.

3. With the consent of the learned counsel on both sides, this Writ Petition is taken up for final disposal at the admission stage itself.

4. Normally, the Writ Petition for a mandamus without a representation to the respondents will not be entertained. But, in the present case, the learned Government Advocate, on instructions, submits that in pursuance of the petitioner's application, dated 11.07.2024, survey was conducted on 14.11.2024 and because of the objections of the adjacent land



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owners, the same could not be completed. The learned Government Advocate, on instructions, further submits that the second respondent seeks further time to resurvey the property along with necessary police aid.

5. 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.



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(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.

(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.



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(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 twelve 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.

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

27.11.2024

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

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N.MALA, J.

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