



W.P.(MD)No.28287 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.11.2024

CORAM:

THE HONOURABLE **MRS.JUSTICE N.MALA**

W.P.(MD)No.28287 of 2024

Indhirabhai,

... Petitioner

/Vs./

1.The Tahsildar,
Kalkulam Taluk,
Kalkulam,
Kanniyakumari District.

2.The Head Surveyor,
Department of land Survey,
Kalkulam Taluk,
Kalkulam,
Kanniyakumari District.

3.The Inspector of Police,
Eraniyal Police station,
Eraniyal,
Kanniyakumari District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing to the Respondent No:1 and 2 to carry out the appropriate survey and demarcate the boundaries of the Petitioner's land in Survey No:426/15,426/16C the land which is situated Eraniyal Revenue village, Kalkulam Taluk, Kanniyakumari District based on the petitioner's Survey payment in Challan Number:



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220221206001201 dated 06.12.2024 and subsequent Application Number:2024/0123/30/001136 dated 13.11.2024 within a stipulated time that may be fixed by this Hon'ble Court.

For Petitioner : Mr. P. Ponraj.

For R1 : Mr.A.Kannan
Additional Government Pleader

ORDER

This Writ Petition is filed for issuance of Writ of Mandamus directing to the respondents 1 and 2 to carry out the appropriate survey and demarcate the boundaries of the Petitioner's land in Survey No: 426/15,426/16C the land which is situated Eraniel Revenue village, Kalkulam Taluk, Kanniyakumari District based on the petitioner's Survey payment in Challan Number:220221206001201 dated 06.12.2024 and subsequent Application Number:2024/0123/30/001136 dated 13.11.2024 within a stipulated time that may be fixed by this Hon'ble Court.

2. The petitioner's husband had ancestral property in Survey Nos. 426/16C, 425/20, 426/15, 426/17, 416/1, 425/9 in Eraniel Revenue village, Kalkulam Taluk, Kanniyakumari District. The petitioner's husband was issued with patta in Patta No.6297 and 4530 for the subject



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properties. While so, the petitioner's husband executed a Will on 27.07.2015 bequeathing the subject properties to his sons and daughter. The petitioner's husband died on 17.01.2018. After his demise, the adjacent land owners tried to encroach the subject land on 16.12.2022. The petitioner moved an application along with requisite fee for the survey of S.Nos.426/15 and 426/16C but no action was taken by the respondents on the petitioner's application. Therefore, the petitioner sent a representation on 16.09.2024. Even thereafter, no action was taken. Therefore, the petitioner's son approached the second respondent, who advised him to make a fresh application along with necessary fee. Accordingly, the petitioner filed an application along with necessary fee on 13.11.2024. Even thereafter, no action was taken. The petitioner gave a representation on 16.11.2024, to the third respondent to give police protection for survey of the land. As no survey was conducted, the petitioner was constrained to file the above Writ Petition for the aforesaid relief.

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



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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.

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



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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. 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



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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.

(X) The survey authority will conclude the entire exercise one way or the other within a period of six 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.

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

27.11.2024

Index : Yes / No
NCC : Yes / No
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N.MALA, J.

CM

Order made in
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Dated:
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