



W.P.(MD)No.28368 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.11.2024

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THE HONOURABLE MRS.JUSTICE N.MALA

W.P.(MD)No.28368 of 2024

and

W.M.P(MD)No.24067 of 2024

Jonathan Victor

... Petitioner

Vs.

1.The Tahsildar,
Office of Tahsildar,
Madurai District.

2.The Surveyor,
Tahsildar Office,
Thannichayam Firka Circle,
Vadipatti Taluk, Madurai District.

3.Poomari

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, restraining the respondents 1 and 2 from surveying the land in R.S.F.No.172/2, Kalvelipatti Village, Madurai till the disposal of the Original suit in O.S.No.1764 of 2023 on the file of the Sub Court, Madurai.



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For Petitioner : Mr.R.Manoharan
For R1 & R2 : Mr.A.Kannan
Additional Government Pleader

ORDER

The writ petition is filed for writ of Mandamus restraining the respondents 1 and 2 from conducting the survey of the lands in R.S.F.No.172/2, Kalvelipatti Village, Madurai till the disposal of the original suit in O.S.No. 1764 of 2023 on the file of the Sub Court, Madurai.

2. The petitioner along with his spouse purchased the subject land under sale deed, dated 10.11.2023. The third respondent obtained fraudulent sale deed from the petitioner's vendor and submitted an application to survey and fix the boundaries of her land. The first respondent on the basis of the application of the third respondent issued notice to the petitioner and the petitioner submitted his objection on 23.10.2024, and again on 10.11.2024, but the first respondent was trying to conduct the survey on 23.11.2024, without considering the petitioner's objection. As the proposed survey was to be conducted during the pendency of civil suit, the petitioner filed the writ petition for the aforesaid relief.



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3. Admittedly, the petitioner filed a writ petition in W.P.(MD)No.27556 of 2024 challenging the notice for survey, dated 19.09.2024 of the first respondent. The petitioner withdrew the said writ petition without liberty to file a fresh writ petition.

4. As the petitioner has given his objections, dated 23.10.2024 and 10.11.2024 to the survey, the respondents are bound to consider the same on merits and in accordance with law before conducting survey. The petitioner even without awaiting the result of the objections has approached this Court, that too without submitting any representation to the respondents to consider his objections. I therefore find that the writ petition is premature and hence the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

28.11.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
SN



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To:

- 1.The Tahsildar,
Office of Tahsildar,
Madurai District.
- 2.The Surveyor,
Tahsildar Office,
Thannichayam Firka Circle,
Vadipatti Taluk, Madurai District.



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N.MALA, J.

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