



WP(MD)No.28777 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **02.12.2024**

CORAM

THE HON'BLE MRS.JUSTICE N.MALA

W.P(MD)No.28777 of 2024

S.Vasudevan

...Petitioner

Vs.

1.The District Collector,
Theni District Collectorate,
Theni District.

2.The Tahsildar,
Aundipatty Taluk Office,
Aundipatty, Theni District.

3.The Head Taluk Surveyor,
Aundipatty Taluk Office,
Aundipatty, Theni District.

...Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India to issue a writ of mandamus directing the 2nd and 3rd respondents to conduct a survey and demarcate the boundaries of the properties belonging to the petitioner and his wife and son comprised in S.No. 535/35, 36, 37, 38, 39, 40 & 41 measuring 4.50 acres situated at Mayiladumparai Village, Aundipatti Taluk, Theni District by considering their representation dated 25.10.2024 within a time frame that may be fixed by this Court.

For Petitioner
For R1 to R3

: Mr.M.Senthil Kumar
: Mr.R.Ragavendran
Government Advocate



WP(MD)No.28777 of 2024

ORDER

WEB COPY

This Writ Petition is filed for issuance of writ of mandamus directing the respondents 2 & 3 to conduct a survey and demarcate the boundaries of the properties belonging to the petitioner, his wife and son comprised in S.No.535/35, 36, 37, 38, 39, 40 & 41 measuring 4.50 acres situated at Mayiladumparai Village, Aundipatti Taluk, Theni District by considering their representation, dated 25.10.2024.

2. The petitioner is the owner of the properties in Survey Nos. 535/35, 36, 37, 38, 39, 40 & 41 measuring 4.50 acres situated at Mayiladumparai Village, Aundipatti Taluk, Theni District. The petitioner was issued separate patta in Patta Nos.4754, 4755, 5907, 6157, 4759 and 4760. The petitioner, his wife and son are in possession and enjoyment of the subject properties. While so, the adjacent land owners were trying to encroach upon the petitioner's property and therefore, the petitioner filed a suit in O.S.No.192 of 2009, on the file of the District Munsif Court, Aundipatty and the same was decreed in favour of the petitioner on 24.07.2012. However, despite the said decree, the adjacent land owners continue to trouble the petitioner, hence, the petitioner filed an application to the second respondent along with necessary fees on



WP(MD)No.28777 of 2024

10.07.2024 for survey and demarcation of his properties. As no action was taken by the respondents, the petitioner submitted a representation on 25.10.2024 and even thereafter, no action was taken and so the petitioner filed 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 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.



WP(MD)No.28777 of 2024

WEB COPY

(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.

(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



WP(MD)No.28777 of 2024

WEB COPY

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 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.



WP(MD)No.28777 of 2024

5. With the aforesaid directions, the Writ Petition stands disposed

of. No costs.

02.12.2024

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

To

1.The District Collector,
Theni District Collectorate,
Theni District.

2.The Tahsildar,
Aundipatty Taluk Office,
Aundipatty, Theni District.

3.The Head Taluk Surveyor,
Aundipatty Taluk Office,
Aundipatty, Theni District.



WEB COPY



WP(MD)No.28777 of 2024

N.MALA,J.

am

W.P(MD)No.28777 of 2024

02.12.2024