



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **10.12.2024**

CORAM:

THE HONOURABLE MRS.JUSTICE N.MALA

W.P(MD)NO.29226 OF 2024

C.Ranjith Kumar

: Petitioner

.VS.

1.The Tahsildar,
Theni Taluk,
Theni District.

2.The Deputy Inspector of Survey,
Theni Taluk,
Theni District.

3.The Firka Surveyor,
Theni Taluk,
Theni District.

:Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned order in Na.Ka.No. 286/2023/A8, dated 13.6.2024, on the file of the first respondent and to quash the same and consequently to direct the respondents to conduct survey of the properties in S.No.1062/1A1, 1A2 and 1B1 situated at Veerapandi Village, Theni Taluk within the time limit prescribed by this Court.



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2

For Petitioner	:Mr.Romeo Roy Alfred
For Respondents 1 to 3	:Mr.A.Kannan Addl.Govt.Pleader

ORDER

The Petitioner has filed the above Writ Petition for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned order in Na.Ka.No.286/2023/A8, dated 13.06.2024, on the file of the first respondent and to quash the same and consequently to direct the respondents to conduct survey of the properties in S.No.1062/1A1, 1A2 and 1B1 situated at Veerapandi Village, Theni Taluk within the time limit prescribed by this Court.

2.The Petitioner submitted a representation along with necessary fees for conducting survey of aforesaid lands. Based on the Petitioner's application, an enquiry was initiated and survey was planned on 27.12.2022 and 06.01.2023. But on the said dates, no survey was not conducted. The Petitioner, therefore, sent a detailed representation dated 27.01.2023, to the first respondent to conduct the survey. Though survey notice was issued to the Petitioner and the petitioner also participated in the survey, survey was not conducted. The Petitioner, therefore, filed RTI application, in reply to which, the Petitioner was informed that due to the



pendency of the litigation in O.S.No.370 of 2022 before the learned Sub-Judge, Theni, the survey could not be conducted. Meanwhile, the first respondent by letter, dated 03.01.2023 requested for police protection for conducting the survey on 06.01.2023. In spite of the letter of the first respondent, the second respondent declined to conduct the survey. Thereafter, on 13.06.2023, the first respondent sent the impugned communication to the Petitioner declining to conduct the survey citing the pendency of the litigation in O.S.No.370 of 2022 before the Subordinate Judge, Theni. Aggrieved by the impugned order of the second respondent, the Petitioner has filed the above Writ Petition for the relief stated supra.

3. The learned counsel for the Petitioner submitted that even as per the circular of the Commissioner of Survey and Resettlement, dated 15.03.2021, mere pendency of the litigation was not a bar to the conduct of survey or resurvey. Only if interim orders were passed by the competent Civil Court injunctiong the survey, conduct of survey would be barred. The learned counsel further submitted that on verification, it was found that in the suit in O.S.No.370 of 2022, no interim order was passed. Moreover, S.No.1062/1A1 is the subject property of the said suit. The learned counsel further submitted that the reasons cited by the



respondents for declining to conduct the survey were unsustainable and therefore, the impugned order was liable to be set aside and consequently, the respondents ought to be directed to conduct the survey.

4.The learned Additional Government Pleader appearing for the respondents 1 to 3 submits that the Petitioner had earlier approached this Court in W.P.No.22487 of 2024 and this Court directed the Petitioner to await the result of the pending suit for grant of separate patta in his favour.

5.I have heard the submissions made on either side and perused the materials placed on record.

6.As rightly contended by the learned counsel for the Petitioner, the suit is of the year 2022 and it relates to S.No. 1062/1A1 and no interim order has been passed in the said suit.It is pertinent to note that in the Circular, dated 15.03.2021 of the Commissioner of Survey and Settlement, Chennai-5 in Clause (iv) it is clearly stated as follows:

“(iv)Pendency of litigation before Courts is not a bar for the authorities to conduct survey or resurvey in the absence of any stay/interim



order/interim injunction from proceeding further.”

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7. Moreover, this Court in order in W.P(MD)No.5491 of 2023, dated 27.3.2023, categorically held that mere pendency of the suit without interim orders, did not bar the authorities from conducting the survey of the lands.

8. In the light of the above and in view of the fact that there is no interim order passed by the competent Civil Court injunctioning the respondents from conducting the survey, I am inclined to set aside the order impugned herein and issue the following directions:

(1) a direction is issued to the first respondent to conduct enquiry for survey of the subject lands of the Petitioner. In this connection, the first respondent shall issue notice to the Parties concerned and all interested persons.

(2) Based on the objections if any, in the enquiry, the first respondent is not inclined to conduct the survey, then, an order should be passed giving necessary reasons for declining survey.

(3) If the respondent decides to conduct survey, then it should be completed within a period of six weeks from the date of receipt



of a copy of this order.

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9.The Writ Petition is accordingly allowed with the aforesaid directions.No costs.

10.12.2024

NCS :Yes/No
Index:Yes/No
Internet:Yes/No

vsn

To

- 1.The Tahsildar,
Theni Taluk,
Theni District.
- 2.The Deputy Inspector of Survey,
Theni Taluk,
Theni District.
- 3.The Firka Surveyor,
Theni Taluk,
Theni District.



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7

N.MALA, J.

vsn

ORDER MADE IN
W.P(MD)NO.29226 of 2024

10.12.2024