



WP(MD)No.29499 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.12.2024

CORAM

THE HON'BLE MRS.JUSTICE N.MALA

W.P(MD)No.29499 of 2024
and WMP(MD)No.24873 of 2024

Prakash

...Petitioner

Vs.

1.The Revenue Divisional Officer,
Nilakkottai Taluk,
Dindigul District.

2.The Thasildar,
Nilakkottai Taluk,
Dindigul District.

3.The Head Surveyor,
Nilakkottai Taluk,
Dindigul District.

4.Kamatchi
5.Sivakumar
6.Karthikeyan

...Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India to issue a writ of mandamus directing the respondents 1 to 3 not to survey the property in S.Nos.266/3D1 and 266/3D2 respectively situated in Pallapatti Village, Nilakkottai Taluk, Dindigul District, based upon the representation of the petitioner dated 28.11.2024.

For Petitioner : Mr.G.Chezhiyan

For R1 to R3 : Mr.R.Ragavendran
Government Advocate



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ORDER

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This Writ Petition is filed for issuance of writ of mandamus directing the respondents 1 to 3 not to survey the property in S.Nos. 266/3D1 and 266/3D2 respectively situated in Pallapatti Village, Nilakkottai Taluk, Dindigul District, based upon the representation of the petitioner dated 28.11.2024.

2. The property in S.No.266/3 to an extent of 1 acre 32 cents in Pallapatti Village, Nilakkottai Taluk, Dindigul District, originally belonged to the petitioner's grandfather and grandmother. They purchased the same under a registered sale deed dated 25.07.1995. The petitioner's grandparents executed a Will in favour of the petitioner and his siblings with respect to the subject property on 06.04.1998. The property in S.No.266/3 was subdivided as 266/3A, 266/3B, 266/3C, 266/3D. Survey No.266/3D was further subdivided as 266/3D1, 266/3D2. For S.No.266/3D2 to an extent of 1 acre and 15 cents, joint patta was issued in favour of the respondents 4 to 6. According to the petitioner, the official respondents had erroneously subdivided the said property in favour of the respondents 4 to 5 alone, that too, without consent of other co-sharers. According to the petitioner, as the



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subdivision was erroneous, the petitioner submitted an application before the first respondent in person to cancel the subdivision to an extent of 1 acre and 32 cents and the said application is pending before the first respondent. While so, the respondents 4 to 6 were trying to survey the said property and to fix the boundaries as per the subdivision made in S.No.266/3D2 in their favour to an extent of 1 acre and 15 cents. According to the petitioner, if survey is conducted on the basis of wrong subdivision, then, the petitioner would be put to lot of hardships. The petitioner therefore sent a detailed representation to the second respondent on 28.11.2024, directing the second respondent not to conduct survey till the disposal of his application before the first respondent dated 20.12.2023. As the second respondent did not act on the petitioner's representation, the petitioner filed the above Writ Petition for the aforesaid relief.

3. The learned Government Advocate, on instructions, submits that the petitioner's father Thangapandi was served with notice of enquiry to be conducted on 10.12.2024, and the petitioner received the same on behalf of his father. The learned Government Advocate therefore submits that the petitioner may be directed to submit his objection, if any, to the



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enquiry notice dated 03.12.2024.

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4. The learned counsel for the petitioner submits that the petitioner has received notice dated 03.12.2024, and the petitioner would appear before the second respondent with his objection on 10.12.2024.

5. The submissions made by the respective counsels are recorded.

6. 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.

7. The petitioner shall submit his objections to the enquiry notice dated 03.12.2024. On receipt of such objection, the officials respondents shall consider the same on merits and in accordance with law and conduct survey as per the following directions:

(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



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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.

(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.



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(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.

(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



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after service of notice on the interested persons.

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(XI) A copy of the survey report along with sketch will be served on the parties.

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

09.12.2024

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

Note: Issue order copy on **09.12.2024.**

To,
1.The Revenue Divisional Officer,
Nilakkottai Taluk,
Dindigul District.

2.The Thasildar,
Nilakkottai Taluk,
Dindigul District.

3.The Head Surveyor,
Nilakkottai Taluk,
Dindigul District.



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N.MALA,J.

CM

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