



W.P(MD)No.29155 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.02.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.29155 of 2023

Ramesh

... Petitioner

Vs.

1.The Tahsildar,
Sivagangai Taluk,
Sivagangai District.

2.The Head Surveyor,
Sivagangai Taluk,
Sivagangai District.

3.The Inspector of Police,
Sivagangai Town Police Station,
Sivagangai District.

4.Subramaniyan

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondents 1 and 2 to survey and demarcate the land to an extent of 0.95.53 Ares comprised in Survey No.286/23 at Kanjirangal Village, PATTA No.614, Sivagangai Taluk, Sivagangai District.

For Petitioner : Mr.K.Radhakrishnan

For Respondents : Mr.T.Villavan Kothai
Additional Government Pleader for R1 & R2



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: Mr.A.Albert James
Government Advocate (Crl.side) for R3

: Mr.K.Chengizkhan for R4

ORDER

Heard both sides.

2. The petitioner wants survey to be conducted in respect of the petition mentioned land.

3. The learned counsel for the fourth respondent contends that the land in question is actually a water body and that therefore, survey cannot be conducted. The learned counsel would urge to take note of the fact that even if patta is granted in respect of the water body, it has to be treated as nullity.

4. I do not want to go into the contentious aspects. The first respondent is directed to dispose of the petitioner's application on merits and in accordance with law within a period of eight weeks.

5. The Writ Petition is disposed of with the following directions:-

(I) The survey authority will scrutinize if the application submitted by the petitioner is in order.

(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



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must given their consent for conducting survey.

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(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. Notice shall be issued to the fourth respondent before conducting survey.

(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



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jurisdictional civil Court for agitating his rights.

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(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. No person shall put up fencing at the time of survey by using police aid.

(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. No costs.

26.02.2024

Index : Yes / No
Internet : Yes/ No
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To

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Sivagangai District.



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G.R.SWAMINATHAN, J.

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