



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **16.12.2024**

CORAM:

THE HONOURABLE MRS.JUSTICE N.MALA

W.P(MD)NO.30272 of 2024

Moorthi

: Petitioner

.VS.

1.The Tahsildar,
Taluk Office,
Sivagangai District.

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

:Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the second respondent to survey and to earmark the four boundaries of the Petitioner properties situated in S.Nos.60/10F and 60/10A of Vembathur Village, Sivagangai Taluk, Sivagangai District on the basis of the Petitioner's representation dated 3.12.2024.

For Petitioner

:Ms.P.Nagalakshmi

For Respondents

:Mr.R.Ragavendran
Govt.Advocate



ORDER

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This Writ Petition is filed for a Writ of Mandamus directing the second respondent to survey and to earmark the four boundaries of the Petitioner properties situated in S.Nos.60/10F and 60/10A of Vembathur Village, Sivagangai Taluk, Sivagangai District on the basis of the Petitioner's representation, dated 3.12.2024.

2.Mr.R.Ragavendran, learned Government Advocate takes notice for the respondents. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

3.The property to an extent of 0.4.1 and 0.32.24 hectare in S.No.60/10F and 60/10A situate at Vembatur Village, Sivagangai Taluk, Sivagangai District originally belonged to the Petitioner's father.The Petitioner's father had executed a settlement deed in respect of the Property in S.No.60/10F vide Document NO. 2222/2021, in favour of the Petitioner.The Property in S.No.60/10A belonged to the Petitioner's father and the Petitioner's father was in peaceful possession and enjoyment of the same and the revenue records werealso mutated in his name. In order to survey and fix the boundaries of the aforesaid lands, for the purpose of fencing and to prevent encroachments, the Petitioner submitted an



application to the second respondent on 01.11.2024, along with necessary fees for survey and to fix the four boundries of the subject lands. In pursuance of the Petitioner's application, the respondents scheduled to survey the lands on 22.11.2024 at 10.00 a.m. But the survey ws not conducted as scheduled.The petitioner therefore submitted a representation on 3.12.2024, requesting the respondents to survey and fix the boundaries of the subject lands. Inspite of the same, no action was taken. Therefore, the Petitioner filed the above Writ Petition for the aforesaid relief.

4.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.

5.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



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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.

(VI) It is open to the parties to serve memo of



instructions to the surveyor at the time of conducting survey.

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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 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.

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

16.12.2024

NSC :Yes/No
Index:Yes/No
Internet:Yes/No

vsn

To

1. The Tahsildar,
Taluk Office,
Sivagangai District.

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



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N.MALA, J.

vsn

ORDER MADE IN
W.P(MD)No.30272 of 2024

16.12.2024