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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 04.02.2025

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.2470 of 2025

Senthilvadvu

..Petitioner

Vs.

1. The District Collector,
Collectorate Office,
Palayapalayam
Erode – 638 011

2. The Revenue Tahsildar,
Kodumudi Taluk,
Erode District.

3. The Surveyor,
Kodumudi Taluk,
Erode District.

4. Sathiyamoorthy

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the entire records pertaining to the impugned letter in Manu/171/24/D1 dated 23.01.2024 issued



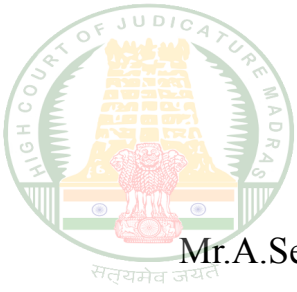
by the 2nd respondent and to quash the same with consequential direction directing the respondents 1 to 3 herein to survey and fix the boundaries of the petitioner's land situate at Punjai Kolanalli Village, Kodumudi Taluk, Erode District, comprised in S.Nos.593/4B, 781/1A, 781/2A, 782/1, 792/2B and 797/6B admeasuring an extent of 4.57.00 Hectares and the petitioner land situate at Nanjai Kolanallipuram Village, Kodumudi Taluk, Erode District comprised in S.No.249/1A, measuring an extent of 1.12.50 Hectares by considering the petitioner's on-line applications dated 04.04.2024 and 12.07.2024, within the time frame fixed by this Court.

For Petitioner : Mr.S.Senthil
For Respondent : Mr.A.Selvendran
Special Government Pleader
for R1 to R3

ORDER

This writ petition has been filed challenging the impugned letter dated 23.10.2024 issued by the 2nd respondent and for a consequential direction to the respondents 1 to 6 to survey the subject property and to fix the boundaries by considering the on-line application submitted by the petitioner dated 04.04.2024 and 12.07.2024.

2. Heard Mr.S.Senthil, learned counsel for the petitioner and



Mr.A.Selvendran, learned Special Government Pleader for Respondents 1 to 3.

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3. On carefully going through the impugned letter, it is seen that a suit is pending between the parties in OS No.32 of 2023 before the competent Civil Court. The learned Counsel for the petitioner brought to the notice of this Court the order passed in WP No.14036 of 2020 dated 09.10.2020 wherein this Court has held that a survey cannot be stopped merely because a suit is pending, unless there is an interim order prohibiting / restraining such survey of the property.

4. In the considered view of this Court, a suit is pending between the parties and the substantial civil rights are involved and it will be more appropriate to file an application before the concerned Civil Court to get an Advocate Commissioner appointed, who can be directed to survey the property with the help of a surveyor. If that is done, the attempt that is being made by the petitioner to get his property surveyed can be achieved. Therefore, when a suit is pending before the Court, it will not be appropriate to parallelly permit a revenue authority to survey the property and to fix the boundary stones, since



such action taken by the revenue authority may have a direct impact regarding the rights involved between the parties, who are fighting before a Civil Court.

5. In view of the above, liberty is granted to the petitioner to move before the Civil Court for appointment of an Advocate Commissioner to survey the property with the help of the revenue authorities and such application shall be considered on its own merits and orders shall be passed. Except giving this clarity, this Court is not inclined to interfere with the impugned letter dated 23.10.2024 issued by the 2nd respondent.

6. This writ petition is disposed of in the above terms. No costs.

04.02.2025

Internet : Yes/No

Index : Yes/No

Speaking Order / Non Speaking Order

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N. ANAND VENKATESH, J.

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