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W.P.No.6725 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.01.2025

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No. 6725 of 2023

N.Balakrishnan

...Petitioner

Vs.

1.The Tahsildar
Kinathukadavu Taluk
Coimbatore District

2.Head Surveyor
Kinathukadavu Taluk
Coimbatore District

3.Jothimani

...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records leading to the impugned order in Na.Ka.No. 4489 / 2022/ S2 dated



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26.12.2022 passed by the 1st respondent herein and quash the same and consequently direct the respondents herein to conduct the survey in respect of Survey nos. 82/1C and 82/4, Kinathukadavu Village, Coimbatore.

For Petitioner : Ms. S.Uma Maheshwari
For Respondents : Mr. M.R.Gokul Krishnan
1 & 2 Additional Government Pleader
For Respondent 3: No Appearance.

ORDER

The Writ Petition is filed for the following relief:

“To call for the records leading to the impugned order in Na.Ka.No. 4489 / 2022 / S2 dated 26.12.2022 passed by the 1st respondent herein and quash the same and consequently direct the respondents herein to conduct the survey in respect of Survey nos. 82/1C and 82/4, Kinathukadavu Village, Coimbatore.”



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2. The petitioner and his father Narayanaswamy are the owners of lands in Survey Nos.82/1C, 82/4, 84/2, 84/3B, 84/4A, 84/3A. The petitioner's father purchased these lands under a registered sale deeds dated 15.03.1994 and 28.03.1994. The petitioner made an application dated 20.04.2022 to the 1st respondent herein to survey the aforesaid lands and the petitioner also paid the necessary charges for completing the survey. In pursuance of the petitioner's application, the 1st respondent conducted the survey and marked the boundaries in respect of Survey Nos. 84/2A, 84/3A, 84/3B, 84/4A and 84/3A. However, he refused to conduct survey in respect of Survey Nos.82/1C and 82/4.

3. The 1st respondent passed the proceedings dated 26.12.2022 in Na.Ka.No.4489/2022/S2 stating that they could not complete the survey in respect of Survey No.82/1C and 82/4 on the ground that 3rd respondent herein objected to conduct survey of the said land. The petitioner submits that the 3rd respondent herein filed a civil suit in



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O.S.No.248 of 2021 on the file of Subordinate Court, Pollachi, in respect of survey no.82/1B and he has not made any claim in respect of Survey Nos.82/1C and 82/4. Hence, there is no impediment to conduct the survey in respect of S.No.82/1C and 82/4.

4. The petitioner submits that the objections raised by the 3rd respondent herein are in no way preventing the 1st respondent from conducting survey in respect of survey nos.82/1C and 82/4. The properties sought to be surveyed are not the subject matter of the suit filed by the 3rd Respondent in O.S No.248 of 2021, on the file of Subordinate Court, Pollachi. The petitioner submits that the 1st respondent is bound to conduct survey in respect of Survey Nos.82/1C and 82/4, as per the provisions of the Tamil Nadu Survey and Boundaries Act, 1923. Hence, the impugned order of the 1st respondent refusing to conduct survey in respect of survey nos.82/1C and 82/4 is challenged by the petitioner.



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5. Heard the learned counsels on the either side and perused the records.

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6. The 3rd respondent though served has not entered appearance through counsel.

7. The records would show that the survey has been done with reference to all the other properties as also the present survey numbers with reference to the southern portion, however, survey of the northern portion has been stopped on account of the objection raised by the plaintiff in the suit O.S.No.248 of 2021, namely, the 3rd respondent herein. The suit itself has been filed for a declaration and for recovery of possession in which the 3rd respondent as plaintiff would allege that the petitioner herein has encroached the portion of the property. However, the suit is with reference to S.No.82/1B and not in respect of S.No.82/1C and 82/4, which are the subject matter of this Writ. There is no interim order restraining the revenue officials to carryout survey.



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Therefore, the impugned order passed by the 1st respondent is quashed.

The 1st respondent is directed to carryout the survey, note down objection that would be made by the 3rd respondent and demarcate the land as per document before the parties and their patta, within a period of 2 months, from the date of receipt of a copy of this order.

8. The Writ Petition is allowed. No costs.

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Index : Yes/No

Internet : Yes/No

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To

1.The Tahsildar
Kinathukadavu Taluk
Coimbatore District

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Kinathukadavu Taluk
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P.T. ASHA, J,

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