



W.A.No.2304 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.10.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.A.No.2304 of 2024

T.Gothai

...Appellant

Vs.

1.The District Collector,
Villupuram District,
Villupuram.

2.The Tahsildar,
Vanur Taluk,
Villupuram District.

...Respondents

PRAYER: The Writ Appeal filed under Clause 15 of the Letters Patent praying to set aside the order made in W.P.No.3258 of 2024 dated 01.04.2024 and allow the Writ Appeal.

For Appellant : Mr.S.Sathia Chandran

For Respondents : Mr.U.Baranidharan, Spl.G.P

Assisted by Mrs.Akila Rajendran,
Government Advocate.



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J U D G M E N T

(Order of the Court was made by S.M.SUBRAMANIAM, J.)

Under assail is the writ order dated 01.04.2024 passed in W.P.No.3258 of 2024.

2. The writ petitioner is the appellant before this Court. A writ of Mandamus has been instituted to direct the second respondent to survey and issue patta jointly in the name of the petitioner and her sister S.Punitha, in respect of their house site comprised in Survey No.30/5, Old Survey No.56/1 of an extent of 1920 sq.ft. bearing Plot No.21 in Sri Venkateswara Nagar in Achcharampattu Village, Vanur Taluk, Villupuram District on the basis of petitioner's application dated 01.12.2023 within a time frame fixed by this Court. Since the learned Single Judge relegated the appellant to approach the competent civil Court of law for resolving the issues, the present intra-Court appeal came to be instituted.

3. Mr.S.Sathia Chandran, learned counsel appearing for the appellant would mainly contend that the learned Single Judge granted liberty to the appellant to approach civil Court under the provisions of the Tamil Nadu Survey and Boundaries Act, 1923 [hereinafter referred to as Act 1923]. Under the said Act, the appellant has got every right to file an application seeking



survey of his own land on payment of costs. Instead of granting the relief, the writ Court relegated the appellant to approach the civil Court, which is not in consonance with the spirit of the provisions under the Act 1923. Further it is contended that the rejection order passed by the Tahsildar has not been communicated to the appellant.

4. In reply, the learned Special Government Pleader would oppose by stating that the rejection order was uploaded on 16.02.2024 itself in the official website. It is for the appellant to download the copy of the rejection order. Therefore, the said objection is incorrect. The copy of the order of rejection, passed by the Tahsildar has been placed before this Court. The reasons stated in the order is that there are discrepancies in the schedule of the property. Since there are discrepancies in the schedule, the Authorities have rejected the application. Under those circumstances, the writ Court granted liberty to approach the competent civil Court of law.

5. This Court has considered the rival submissions made between the parties to the lis on hand.

6. Let us consider the scope and application of the Act 1923. Chapter II deals with “The survey of Government lands”. Chapter III deals with “The survey of estates”. Applications are filed by the private individuals to conduct



survey of patta lands under Section 5 of Chapter II of the Act. When Chapter II deals with the survey to be conducted in respect of the Government lands, it would be relevant to consider the scope of Section 5 for conducting survey of patta lands or to resolve the boundary dispute between private individuals in respect of patta lands. Section 5 of the Act reads as under:

5. The State Government or subject to the control of the State Government any officer or authority to whom this power may be delegated by it may by notification order a survey of any Government land or of any boundary of such land or of the boundary forming the common limit of Government land and land that is not Government land.

7. Section 6 denotes notification to be published by Survey Officer. Section 7 states that the Survey Officer has to carry out survey in prescribed manner. Section 8 is about the cost to be charged from the persons interested in the land survey. Section 9 provides power of the Survey Officer to determine and record un-disputed boundaries. Section 9(1) indicates that the Survey Officer shall have power to determine and record undisputed boundary in respect of which no dispute is brought to his notice. Section 10(1) denotes that “where a boundary is disputed, the survey officer, after making such inquiry as he considers necessary, shall determine the boundary and record in accordance with his decision. The Survey Officer shall record in writing the reasons for his decision”.



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8. Section 14 stipulates “Any person deeming himself aggrieved by the determination of any boundary under Section 9, 10 or 11 may subject to the provisions of Parts II and III of the Indian Limitation Act, 1963 (Central Act 36 of 1963), institute a suit within three years from the date of the notification under Section 13 to set aside or modify the said determination and the survey shall, if necessary, be altered in accordance with the final decree in the suit and the alteration, if any, shall be noted in the record”. The very scheme of the Act unambiguously amplifies that the final arbitrator is the Civil Court of law and the surveyor cannot entertain any dispute between the parties regarding boundaries or title disputes or otherwise.

9. In the present case, attempt has been made to resolve the boundary dispute, which is relateable to property right. Such a power has not been conferred to the Survey Officer. Therefore, the scope of Section 9 cannot be expanded so as to form an opinion that the civil dispute relating to boundaries can be resolved under the provisions of the Act.

10. A reading of Section 5 would indicate that any Officer or Authority to whom the power to survey may be delegated, the said Officer may by notification order a survey of any Government land. Therefore, a notification is mandated under Section 5 for delegation of powers. The second phrase



under Section 5 indicates that “of any boundary of such land” and the third phrase is “of the boundary forming the common limit of Government land and land that is not Government land”. A holistic reading of Section 5 would indicate that it is relatable to survey of Government lands and not intended to resolve boundary dispute between private individuals in respect of patta lands. Therefore, boundaries forming common limit of Government land and the land that is not a Government land is to be construed for the purpose of resolving the *inter se* dispute, if any exists between the Government land and the private land and certainly not in respect of the private lands.

11. Chapter II of the Act 1923 is captioned as “the survey of Government lands”. The entire provisions are to be read in the context of survey of Government land and it is not meant to resolve the boundary dispute in respect of individual patta lands. Survey Officers are incompetent to fix the boundary, resolve the boundary dispute and settle civil rights under the provisions of The Act 1923. It must be done through trial nature proceedings by the competent civil Court of law.

12. Chapter III of the Act 1923 is captioned as “the survey of estates”.
Section 17 reads as under:-



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17. State Government may direct the survey of an estate in certain cases.-- *The State Government, or subject to the control of the State Government, any officer or authority to whom this power may be delegated by it, may, by notification, direct the survey of any estate or portion of an estate or of any boundary therein--*

(a) on the application in writing of the proprietor of such estate or, in the case of a boundary of any person interested therein; or

(b) without such application whenever in the opinion of the State Government such survey is necessary--

(i) for the better or more convenient assessment or levy of irrigation cess;

(ii) for any other reason to be recorded prior to the issue of such notification

13. Section 18 contemplates procedures to be observed during survey.

Section 19 is cost of survey recoverable from Proprietor. Section 21 reads as under:-

21. Consequences ensuing on completion of survey of an estate.-- *When an estate or a portion of an estate or a boundary in an estate has been surveyed in pursuance of a notification issued under section 17, the survey officer shall report the completion of the survey to the District Collector and to the proprietor, and the following consequences shall there upon ensue;-*



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(i)Duty of tenants-- Subject to such conditions as may be prescribed in this behalf, every tenant of the land surveyed, and where there is no tenant, the proprietor, shall be bound to maintain, renew and repair the survey marks on or within the boundaries of his holding, and in default of his doing so the Collector may, after giving notice to the tenant or proprietor as the case may be in the manner provided in sub-sections (2) and (3) of section 15, at the cost of the 1 [State Government] maintain, renew and repair such survey marks and recover the cost of so doing as an arrear of land revenue. Such cost may include the cost of all operations incidental to such renewal or repair but not any charges on account of survey officers and supervising establishment.

(ii)Duties of village officers.-- It shall be the duty of the headman and of the accountant of every village the whole or a part of which has been surveyed—

(a) to prevent the destruction, injury, removal or alteration of any survey mark on or within the limits of his village; and

(b)when he becomes aware that any such mark has been destroyed injured removed or altered to report the fact to the proprietor of the estate and to the Collector or to such officer subordinate to the Collector as the District Collector may, from time to time, direct.



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14. A close reading of Section 21 would indicate that the Survey Officer after conducting survey in pursuance of the notification, shall report completion of survey to the District Collector and to Proprietor. Consequences of such survey has been clearly enunciated under Section 21(i) and (ii). The very purpose of Section 17 for conduct of survey is relatable to the duty of tenants and duties of village officers under Section 21 of the Act 1923. Section 21 nowhere speaks about resolving the boundary dispute between tow individuals in respect of patta lands.

15. In the context of Chapter III that is “survey of Estates”, it is relevant to consider the definition of “estate” under Section 3(i) of the Act, which reads as under:

(i) ‘Estate’ means (a) any permanently-settled estate whether a Zamindari, jaghir, mitta or palaiyam;

(b) any portion of such permanently-settled estate which has been separately registered in the office of the Collector;

(c) any unsettled palaiyam or jaghir;

(d) any inam village of which the grant was made or has been confirmed by the British Govenment;

(e) any portion, consisting of one or more villages of any of the estates specified above in clauses (a), (b) and (c), which is held on a permanent under-tennure.



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16. The individual private patta lands cannot be construed as “estate” within the meaning of the above provision. The estate indicates permanently settled estates viz., *Zamindari, jaghir, mitta or palaiyam*. Notedly the Tamil Nadu Survey and Boundaries Act was enacted in the year 1923, which is a pre-independence Act. During the relevant point of time, the survey of lands were not completely done and furthermore the Act speaks about *Zamindari, jaghir, mitta or palaiyam* lands. Therefore, the said Act cannot be now pressed into service for the purpose of survey of boundaries to settle the boundary dispute in respect of patta lands belonging to individuals. Therefore, application under the Act 1923 for conducting survey of private lands are not maintainable under the Act. The parties have to resolve the boundary dispute only through the competent civil Court of law.

17. Any attempt made by the individuals to resolve the boundary dispute to establish their civil rights under the Act 1923 is impermissible under law. The power of civil Courts cannot be usurped by the Survey Officer under Section 9 of the Act for the purpose of settling the boundary dispute. The scope of the Act cannot be expanded for determining civil rights between the private individuals. Therefore, Writ Petitions filed seeking survey of the land under the Act 1923 to resolve the boundary dispute are not maintainable. Aggrieved persons are to be relegated to approach the competent civil Court



of law for the purpose of settling the boundary dispute by establishing their civil rights based on documents and evidences available on record. In the above context, it is relevant to rely on Section 35 of the Indian Evidence Act, 1872, which states about *“Relevancy of entry in public record or an electronic record made in performance of duty. -An entry in any public or other official book, register or record or an electronic record, stating a fact in issue or relevant fact, and made by a public servant in the discharge of his official duty, or by any other person in performance of a duty specially enjoined by the law of the country in which such book, register, or record or an electronic record is kept, is itself a relevant fact.”* Therefore, the survey and boundaries fixed by the authorities are not conclusive proof of title, ownership or civil rights. In the event of any boundary dispute, the final arbitrator is the civil Court of law even under Section 14 of the Act 1923.

18. Mere direction to consider the application to conduct survey under the said Act is not maintainable, since such a direction would do no service to the cause of Justice, but, the litigants will be back again by filing further litigations. Instead of paving way for multiplicity of proceedings, the parties are to be relegated to approach the civil Court to establish their civil rights. Furthermore, the High Court in a writ proceedings cannot conduct roving enquiry with reference to the grounds raised between the parties regarding title, ownership, boundary dispute, civil rights or otherwise. Thus, the orders



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passed in Writ Petitions directing the competent Authorities to relegate the parties to the civil Court is the correct position of law.

19. The learned counsel for the appellant would submit that the application filed by the appellant pertains to grant of patta under the Tamil Nadu Patta Passbook Act. Section 3 of the Patta Passbook Act, 1983 in unambiguous terms clarifies that a owner is entitled to file an application seeking patta. In the event of any dispute regarding title or discrepancy in the matter of boundary, then patta cannot be granted, since an undisputed boundary in respect of property is required for the purpose of grant of patta under the Tamil Nadu Patta Passbook Act. Further the said position has been clarified under Rule 4(4) of the Tamil Nadu Patta Passbook Rules. Under the said Rule, the Authorities have no power to issue patta in the event of any title or boundary dispute, but, the parties are to be relegated to approach the competent civil Court of law.

20. In the present case, the dispute is about the discrepancy in the schedule of property. If at all the appellant states that there is no discrepancy in the boundary, then it is for him to prefer an appeal under the Patta Passbook Act in the manner contemplated. In the present case, the writ Court has relegated the appellant to approach the civil Court. Further, it was made clear that the aggrieved person has to approach the civil Court for



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establishing his civil rights and certainly not under the provisions of the Act
1923.

21. With the above clarification, liberty is granted to the appellant to approach the competent civil Court of law. Accordingly, this Writ Appeal stands **dismissed**. No costs.

(S.M.S., J.) (M.S.Q., J.)
06.10.2025

dsa
Index :Yes/No
Neutral Citation :Yes/No
Speaking/Non-speaking order

To

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Villupuram District,
Villupuram.

2.The Tahsildar,
Vanur Taluk,
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