



W.P.No.24768 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2025

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.24768 of 2025

R.Nagarasan

... Petitioner

Vs.

1.The District Collector,
Tiruppur District,
Tiruppur.

2.The Tahsildar,
Avinashi,
Tiruppur District.

3.The Taluk Surveyor,
Avinashi, Avinashi Taluk.

4.P.Narayanasamy

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order of the third respondent dated 14.02.2025 and to quash the same as illegal, incompetent and ultravires and consequently, direct the 2nd respondent to conduct survey and fix the boundary stones to the properties comprised in S.F.Nos.253/1B and 255/1 measuring to an extent of 1.44 ½ acre situated at Vellayudhamapalayam Village, Avinashi Taluk, Coimbatore.



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For Petitioner : Mr.M.Guruprasad
For Respondents : Mr.P.Sathish
Additional Government Pleader
for R1 to R3

ORDER

The present writ petition is filed challenging the order of third respondent dated 14.02.2025 whereby petitioner's request for surveying the land comprised in Survey Nos.253/1B and 255/1 measuring an extent of 1.44 ½ acre situated at Vellayudhamapalayam Village, Avinashi Taluk, Coimbatore was refused only on the limited ground that the suits are pending in respect of subject property.

2. By consent of learned counsel on both sides, this writ petition is taken up for final disposal at the admission stage itself. In view of the order that this Court proposes to pass and also the limited relief that is sought to be granted, notice to fourth respondent is dispensed with.

3. It is submitted by learned counsel for petitioner that petitioner had submitted a representation dated 21.06.2024 to the 2nd respondent,



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seeking to conduct survey in the subject property by paying necessary fee.

Thereafter, 3rd respondent issued notice to petitioner and other interested parties and fixed the date of survey on 14.02.2025. However, 4th respondent refused to conduct survey stating that two Suits are pending and passed Impugned Order dated 14.02.2025.

4. It is submitted by learned counsel for petitioner that though two suits, viz., O.S.Nos.106 of 2017 pending on the file of Subordinate Court, Avinashi and O.S.No.275 of 2016 pending on the file of District Munsif, Avinashi, however there is no interim order or any order restraining the respondents from conducting the survey. He would further submit that mere pendency of the suits would not be a bar for conducting the survey.

5. It is submitted by learned Additional Government Pleader for respondents 1 to 3 that it would be appropriate for petitioner to take out fresh application for carrying out the survey and demarcate the boundaries.



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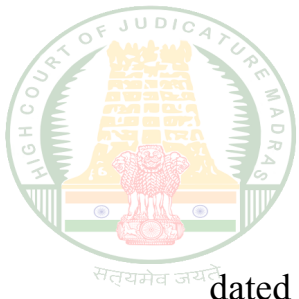
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6. I find that the order impugned herein is contrary to the Circular dated 15.03.2021 in R.C.No.Q5/20403/2020 (sv), wherein in Clause (iv) & (v) of paragraph No.2, it has been clarified that pendency of litigation is not a bar for conducting survey. The relevant portion is extracted hereunder:

"2. (iv) Pendency of litigation before Courts is not a bar for the authorities to conduct survey or resurvey in the absence of any stay / interim order / interim injunction from proceeding further.

(v) In cases relating to pending civil dispute, the parties are at liberty to approach the appropriate forum for conducting Survey of Resurvey of the property in question by making necessary application and the same shall be considered by the appropriate forum in accordance with law."

7. In the considered view of this Court, mere pendency of the suit is not a bar for the authorities to conduct survey or resurvey if there is no interim order in the pending suits. In view thereof, the impugned order



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dated 14.02.2025 is set aside and petitioner is directed to submit an application afresh to the concerned respondent and pay necessary fee in respect of Survey Nos.253/1B and 255/1. On receipt of such application / payment, the concerned respondent shall conduct survey and fix the boundaries of the subject property after issuing notice to the petitioner, 4th respondent, adjacent land owner and any other interested parties including rival claimants if any and pass appropriate orders within a period of eight weeks from the date of uploading of web copy without waiting for the receipt of certified copy, after affording reasonable opportunity of hearing to petitioner, fourth respondent, adjacent land owners, interested parties and any other rival claimants if any. It is made clear that this Court has not expressed any view with regard to the merits of the case and it is open to the concerned respondent to consider the matter on its own merits and in accordance with law.



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8. Accordingly, this Writ Petition stands disposed of. No costs.

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NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No
vji
To

1.The District Collector,
Tiruppur District,
Tiruppur.

2.The Tahsildar,
Avinashi,
Tiruppur District.

3.The Taluk Surveyor,
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MOHAMMED SHAFFIQ, J.

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