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W.A.(MD)NO.554 OF 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.02.2025

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

W.A.(MD)No.554 of 2021 AND

C.M.P.(MD)No.2516 of 2021

Masilamani

... Appellant / Respondent No.4

Vs.

1. The Assistant Director of Survey,
Dindigul District.

2. The Taluk Surveyor,
Aathur Taluk,
Dindigul District.

3. The Inspector of Police,
Ambathurai police station,
Dindigul District.

... Respondents 1 to 3/
Respondents 1 to 3

4. V.Marimuthu

... Respondent No.4/Petitioner

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, to call for records relating to the order dated 16.12.2020 in W.P. (MD)No.18469 of 2020 on the file of this Court and set aside the same and allow the writ appeal as prayed for.

For Appellant : Mr.R.Karunanithi

For R-1 & R-2 : Mr.G.V.Vairam Santhosh,
Additional Government Pleader.



For R-3 : Mr.A.Albert James,
Government Advocate.

For R-4 : Mr.R.Anand

* * *

J U D G M E N T

(Order of the Court was delivered by G.R.SWAMINATHAN, J.)

Heard both sides.

2. Thiru.Marimuthu, fourth respondent filed W.P.(MD) No.18469 of 2020 for directing the survey authorities to conduct survey of the property comprised in survey No.231/6 in Kalikkampatti Village. The writ petition was disposed of vide order dated 16.12.2020. Direction was given to the survey authorities to survey the property. Aggrieved by the same, the appellant herein who was shown as fourth respondent in the writ petition has filed this appeal.

3. It is not in dispute that one Rajeswari filed O.S.No.708 of 2008 before the Additional District Munsif Court, Dindigul seeking partition and separate possession. Marimuthu / writ petitioner as well as Masilamani / appellant herein figured as defendants in the said suit. The suit was renumbered as O.S.No.242 of 2019 on the file



of the District Munsif Court, Athoor and it was dismissed on 06.01.2024. It appears that the findings rendered by the trial Court were to the disadvantage of the appellant herein. Therefore, the appellant and his son Kalyanasundaram filed A.S.No.20 of 2024 before the Principal Sub Court, Dindigul.

4. The suit property is the subject matter of the said A.S.No.20 of 2024. When the jurisdictional civil Court (appellate Court) is seized of the matter, it may not be proper on the part of the survey authorities to conduct survey. We therefore direct the parties to approach the jurisdictional Tahsildar as well as the survey authorities after the disposal of A.S.No.20 of 2024. The survey authorities will take a call based on the outcome of the first appeal. The order impugned in this writ appeal is set aside. This writ appeal is disposed of accordingly. No costs.

(G.R.SWAMINATHAN, J.) & (M.JOTHIRAMAN, J.)

6th February 2025

NCC : Yes / No

Index : Yes / No

Internet : Yes/ No

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To:

1. The Assistant Director of Survey,
Dindigul District.
2. The Taluk Surveyor,
Aathur Taluk,
Dindigul District.
3. The Inspector of Police,
Ambathurai police station,
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