



W.P.(MD)No.27604 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.01.2025

CORAM

THE HONOURABLE MRS.JUSTICE N.MALA

W.P.(MD)No.27604 of 2024

and

W.M.P(MD)No.23430 of 2024

Otchammal

... Petitioner

Vs.

1.The Thasildar,
Andipatti Taluk,
Theni District.

2.Nandhini

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, forbearing the first respondent from survey the lands to an extent of 1 Acre 56 cents in Jameen S.No.64, New S.No.90/2 and an extent of 3 Acre 70 cents in Jameen S.No.124/1 of Palayakottai Village, Andipatti Taluk, Theni District till final decree will be passed in O.S.No.201 of 2020 on the file of the Sub Court, Theni.

For Petitioner : Mr.S.Sukumar

For R1 : Mr.A.Kannan
Additional Government Pleader



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ORDER

The writ petition has been filed for Writ of Mandamus, forbearing the first respondent from survey the lands in Jameen S.No.64, New S.No.90/2 and Jameen S.No.124/1 to an extent of 1 Acre 56 cents and 3 Acre 70 cents respectively in Palayakottai Village, Andipatti Taluk, Theni District till final decree is passed in O.S.No.201 of 2020 on the file of the Sub Court, Theni.

2. The learned Additional Government Pleader for the first respondent submits that notice of survey was issued and the petitioner also filed copy of the same in Page No.29 of the type set of papers. The learned Additional Government Pleader submits that the petitioner instead challenging the notice of survey filed the petition for writ of Mandamus forbearing the respondents from surveying the lands. The learned Additional Government Pleader submits that it is open to the petitioner to participate in the enquiry and submit his objections, if any, to the survey.

3. As rightly contended by the learned Additional Government Pleader, the objections raised by the petitioner in the writ petition can very well be raised before the authorities at the time of enquiry for which the notice has already been issued and which is filed at Page No.29 of the type set of papers.



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4. With the consent of both learned counsels, this writ petition is taken for final disposal. If any person is aggrieved by this order, it is open to them to move this Court either by way of review or recall of this order, if there is any suppression of material facts by the petitioner.

5. This Court in W.P(MD)No.12676 of 2024, dated 14.06.2024 issued certain directions for considering the application for survey and fixing of boundary. Following the said order, the following directions are issued:

(I) The petitioner is directed to submit his / her application in on-line mode. The survey authority will scrutinize if the application submitted by the petitioner is in order. Patta need not be in the name of the applicant. If patta is in the name of the vendor and mutation has not been effected, still the application can be considered.

(II) The petitioner will have to enclose all the relevant documents such as patta. The applicant must have individual patta in his / her name. If he / she is having joint patta, co-pattadars must give their consent for conducting survey.

(III) The survey authority will issue notice to the writ petitioner as well as the adjacent land owners and also to the interested persons, if any.



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(IV) Enquiry shall be held. During enquiry, objections raised by the adjacent land owners / interested persons shall be considered.

(V) If according to the jurisdictional authority, the objections are without any basis, the same shall be overruled and the objectors shall be informed accordingly. But the survey will be conducted only after a period of six weeks so that the objector can move the concerned Court for injunction. If before the proposed date of survey, the objector is unable to obtain any injunction order, the survey can very well go on.

(VI) It is open to the parties to serve memo of instructions to the surveyor at the time of conducting survey. The same will be borne in mind. While it cannot be binding on the surveyor, the same will be taken note of.

(VII) If the jurisdictional authority finds objections to be having substance, then, he shall call upon the applicant to move the jurisdictional civil Court for agitating his rights.

(VIII) If required, the survey authority is empowered to seek aid of the jurisdictional police and the jurisdictional police are mandated to grant police protection.

(IX) It is made clear that at the end of the survey exercise, survey stones alone can be installed. The exercise of survey and



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demarcation undertaken pursuant to the direction of this Court can never result in dispossession of any party. If the petitioner wants to put up fencing and if there is any objection from any private party, fencing can be put up only after the petitioner obtains decree from the jurisdictional Civil Court.

(X) The survey authority will conclude the entire exercise one way or the other **within a period of 12 weeks** after service of notice on the interested persons.

(XI) A copy of the survey report along with sketch will be served on the parties. No costs.

5. With the aforesaid directions, the writ petition stands disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

08.01.2025

NCC:yes/no
Index:yes/no
Internet:yes/no
SN

To:

The Thasildar,
Andipatti Taluk,
Theni District.



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N.MALA, J.

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