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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **29.01.2025**

CORAM

THE HON'BLE MRS.JUSTICE N.MALA

W.P(MD)No.2357 of 2025

CR.Manikandan ...Petitioner

Vs.

1. The Tahsildar,
   Madurai South,
   Madurai District.

2. The Surveyor,
   Madurai South,
   Madurai District. ...Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India to issue a Writ of Mandamus, to direct the respondents 1 and 2, to survey the land in Survey Nos.158/4B, 158/5B and 158/6 situated at Viraganoor Village, Madurai South, Madurai and fix the boundary by considering petitioner application, vide payment of Challan dated 07.03.2024 within the time fixed by this Court.

For Petitioner : Mr.K.Sathish Kumar
For Respondents : Mr.M.Muthumanikkam
Government Advocate

ORDER

This Writ Petition is filed for writ of mandamus directing the respondents 1 and 2 to survey the lands in Survey Nos.158/4B, 158/5B and 158/6 situated at Viraganoor Village, Madurai South, Madurai and

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fix the boundaries by considering petitioner's application, vide payment of Challan dated 07.03.2024.

2. The petitioner is the absolute onwer of the lands in S.Nos.158/4, 158/5 and 158/6 to an extent of 1 acre 84 cents in Viraganoor Village, Madurai South Taluk, Madurai District. The petitioner is in possession and enjoyment of the properties. The petitioner decided to fence the properties and therefore submitted an application on 07.03.2024, to the respondents along with necessary fee for survey and demarcation of the boundaries of his lands. In pursuance of the petitioner's application, the respondents issued notice to the petitioner as well as the adjacent land owners on 24.07.2024 informing that the survey would be conducted on 26.07.2024. On 26.07.2024, though the respondents came to the lands for survey, survey could not be conducted as the respondents did not find the foundation stones and they informed the petitioner that they would return and conduct the survey later. Thereafter, the respondents did not conduct survey. Therefore, the petitioner filed the above Writ Petition for the aforesaid relief.

3. By consent of both parties, this Writ Petition is taken up for

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final disposal at the stage of admission itself. It is open to any aggrieved party 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.

4.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 the 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

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interested persons, if any.

(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

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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 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 twelve 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.

5. With the aforesaid directions, the Writ Petition stands disposed of. No costs.

29.01.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To,

1. The Tahsildar,
   Madurai South,
   Madurai District.

2. The Surveyor,
   Madurai South,
   Madurai District.

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N.MALA,J.

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