



W.P.(MD)No.28279 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.01.2025

CORAM

THE HONOURABLE MRS.JUSTICE N.MALA

W.P.(MD)No.28279 of 2023

and

W.M.P(MD)No.24346 of 2023

Muthalagu

... Petitioner

Vs.

1.The Tahsildar,
Boodalur Taluk,
Thanjavur District.

2.Raja

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for entire records relating to the proceedings of the first respondent made in O.Mu.Uo.P.Manu.No. 42/2023/D1, dated 28.07.2023 and quash the same and consequently, direct the first respondent to survey and issue separate patta in favour of the petitioner in respect of 10 cents in S.No.498/13, Koviladi Village, Boodalur Taluk, Thanjavur District.

For Petitioner : Mr.R.Murali

For R1 : Mr.R.Ragavendran
Government Advocate



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ORDER

The writ petition has been filed challenging the order of the first respondent, dated 28.07.2023 and consequently, directing the first respondent to survey and issue separate patta in favour of the petitioner in respect of 10 cents in S.No.498/13, Koviladi Village, Boodalur Taluk, Thanjavur District.

2. The petitioner as the owner of the property in old S.No.451/F2C, new S.No.498/13, to an extent of 10 cents, at Koviladi Village, Boodalur Taluk, Thanjavur District filed an application along with necessary fee for survey and sub division of her lands on 10.10.2022. The petitioner was issued patta in Patta No.674. The second respondent is the owner of 33 cents out of 1 acre in S.No.453/1B3 and both the properties are vacant sites. The petitioner's request for survey and demarcation of boundaries of her lands was rejected vide impugned order, dated 28.07.2023, on the ground that on the southern side of the petitioner's property there was discrepancy in the extent enjoyed by the petitioner. Aggrieved by the impugned order, the petitioner filed the above writ petition for the aforesaid relief.

3. The learned counsel for the petitioner submits that the petitioner's request was rejected only on the ground that there was discrepancy in the southern side of the petitioner's property. The learned counsel for the petitioner



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relying on the additional affidavit submitted that the second respondent as the adjacent owner of the southern side of her property, during the pendency of the writ petition agreed on the boundaries as reflected in the FMB sketch and therefore, the petitioner put up proper fence on the southern side of the property. In view of the said development, the respondents ought not to have any difficulty in surveying and measuring the property.

4. Heard the learned counsel for the petitioner and perused the available materials on record.

5. As rightly contended by the learned counsel for the petitioner, the first respondent declined to survey the property because of discrepancy in the souther side of the petitioner's property. As the same has been settled, the respondents have no difficulty in surveying and measuring the petitioner's property and marking the boundary.

6. In view of the said discussion, a direction is issued to the first respondent to conduct survey of the subject lands as per the directions of this Court.



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7. With the consent of both learned counsels, this writ petition is taken up 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.

8. 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.

22.01.2025

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

To:

The Tahsildar,
Boodalur Taluk,
Thanjavur District.



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N.MALA, J.

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