



W.P.(MD)No.28280 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.28280 of 2023

Muthalagu

... Petitioner

Vs.

The Tahsildar,
Boodalur Taluk,
Thanjavur District.

... Respondent

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 respondent made in O.Mu.Uo.P.Manu.No.88/2023/D1, dated 28.07.2023 and quash the same and consequently, direct the first respondent to survey and issue separate patta.

For Petitioner : Mr.R.Murali

For Respondent : Mr.R.Ragavendran
Government Advocate

ORDER

The writ petition has been filed challenging the order of the first respondent, dated 28.07.2023 and consequently, directing the respondent to survey and issue separate patta in favour of the petitioner.



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2. The petitioner is the joint owner of natham property in S.No.500/14, Koviladi Village, Boodalur Taluk, Thanjavur District, to a total extent of 1228 square feet, but the share of the petitioner's family is only 545 square feet. The natham patta was issued in the name of the petitioner's father and two other persons. As the petitioner had some financial crisis, the petitioner needed separate patta to mortgage the property. The petitioner therefore made an application along with necessary fee for survey and subdivision of her lands on 20.06.2023, but the same was rejected by the respondent, on the ground of non-production of legal heirship certificate. The petitioner was having legal heirship certificate but the respondent refused to survey the petitioner's lands. The petitioner therefore filed the above writ petition for the aforesaid relief.

3. It is seen from the impugned order that the only reason cited for rejecting the petitioner's request was that the petitioner had not produced the legal heirship certificate. The petitioner has annexed the same at Page No.11 of the type set of papers and therefore, the petitioner is directed to produce the same before the respondents and on production of the same, the second respondent shall conduct survey and issue separate patta.



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4. 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.

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.

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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