



W.P.(MD)No.31358 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **18.02.2025**

CORAM:

THE HONOURABLE MR JUSTICE P.B. BALAJI

W.P.(MD)No.31358 of 2024

and

W.M.P.(MD).Nos.26258 & 26259 of 2024

Jonathan Victor

... Petitioner

/Vs./

1. The Tahsildar,
Office of Tahsildar,
Madurai District.

2. The Surveyor,
Tahsildar Office,
Tahnnichayam Firka Circle,
Vadipatti Taluk,
Maduari District.

3. Poomari

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned notice in FL Number 2024/0123/24/010251 dated 28.12.2024 passed by the second respondent and quash the same as illegal and consequently restrain the respondents 1 & 2 from surveying the land in S.F.No.172/2, Klavellipatti Village, Madurai till the disposal of the civil suit.



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For Petitioner

: Mr.R.Manoharan

For Respondent Nos.1 & 2

: Mr.M.Lingadurai

Special Government Pleader

For Respondent No.3

: Mr.R.Karmegam

ORDER

The Writ Petition has been filed challenging the survey notice issued by the second respondent seeking to survey the lands in S.F.No. 172/2, Kalvellipatti Village, Madurai.

2. The learned Counsel appearing for the writ petitioner would submit that he has already filed a suit in O.S.No.1764 of 2023 for declaration and permanent injunction restraining the third respondent herein from interfering with the petitioner's peaceful possession and enjoyment of the petitioner.

3. Pending the said suit, the third respondent sought for survey of the land and fix boundaries. In pursuant to the said application, the first respondent has sent a notice to the petitioner, the petitioner has objected to the said survey to be conducted. However, yet again over ruling the



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objections of the petitioner, the first respondent again issued a notice on 19.09.2024, mentioning that survey of the land in S.F.No.172/2 will be conducted on 15.11.2024. This notice is under challenge in the present writ petition.

4. The learned Counsel appearing for the petitioner having heavy reliance on the decision of the W.A.(MD).No.1806 of 2023 dated 13.10.2023, where, the Division Bench held as follows :

"4. Under the TamilNadu Survey and Boundaries Act, 1923, the Survey Officer shall determine the boundaries by conducting survey. However, survey is to be conducted, if there is no disputed issues between the parties. In other words, if there is any objections from any person to conduct survey on the ground of title, ownership etc., then the Government Surveyor cannot conduct survey nor determine title or ownership. The authorities competent, in such circumstances, are bound to relegate the parties to approach the civil Court of Law for the purpose of resolving the disputed facts. The power of Civil Court cannot be usurped by the revenue authorities or the Government Surveyor. Under the Act, if the surveyor conduct survey or refuse to conduct survey an appeal may be preferred and finally Section 14 contemplates filing of a civil suit before



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the competent civil Court. Thus, the scheme of the Act itself contemplates, in the event of any grievance against the order of the original authority or the appellate authority, the civil Court alone is competent to decide the issues."

5. Per contra, the learned Counsel appearing for the third respondent place reliance on the decision of this Court in W.P.(MD).No.21006 of 2023 dated 26.09.2023, where, this Court had given general directions for survey authorities to follow. The third respondent also invited my attention to the classification of the subject land as 'Panchami land' and therefore according to the third respondent, the petitioner cannot claim any right over the subject property.

6. In my considered opinion that the later decision of the Hon'ble Division Bench of this Court is binding on this Court and admittedly there is a title dispute pending in O.S.No.1764/2023 and the respondent is also a party in the pending suit. It is open to the third respondent to seek necessary relief/order in the pending suit and he cannot seek survey independently to be conducted by the revenue authorities.



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7. In view of the above, the writ petition is entitled to be allowed and consequently the impugned notice is hereby set aside, with a liberty to the third respondent to approach the civil court including making an application in the pending suit filed by the writ petitioner seeking survey.

8. With the above directions, this Writ Petition is allowed.
No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
NCC : Yes / No
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P.B. BALAJI, J.

gvn

TO:-

1. The Tahsildar,
Office of Tahsildar,
Madurai District.
2. The Surveyor,
Tahsildar Office,
Tahnnichayam Firka Circle,
Vadipatti Taluk,
Maduari District.

Order made in
W.P.(MD)No.31358 of 2024

Dated:
18.02.2025