BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE **S. VAIDYANATHAN**

W.P.(MD)No.13465 of 2020
and
WMP(MD).No.11228 of 2020

Asaithambi ... Petitioner

-vs-

1.The Revenue Divisional Officer,
O/o. the Revenue Divisional Officer,
Madurai,
Madurai District.

2.The Thasildar,
Madurai West Taluk,
Madurai,
Madurai District.

3.The Town Surveyor,
Madurai West Circle,
Collectroate,
Madurai.

4.The Village Administrative Officer,
Ponmeni Village,
Madurai Town and District.

5.Mahendran ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus forbearing the 4th respondent

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herein from surveying the petitioner's property in T.S.No.62 and Survey No.66/7 in Patta No.R.T.R. 676(a), 94-95, dated 23.12.1994 at Ponmeni Village, Bye-Pass Road, Madurai by adverting to the orders passed by the 1st respondent herein proceedings in Na.Ka.No.5609/2012/C, dated 31.12.2015.

For Petitioner : Mr.T.Lajapathi Roy
For Respondents 1 to 4 : Mr.M.Pandiyarajan
Additional Government Pleader
For 5th respondent : Mr.G.Prabhuraja Durai

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ORDER

This writ petition is filed, seeking to forbear the 4th respondent herein from surveying the petitioner's property in T.S.No.62 and Survey No.66/7 in Patta No.R.T.R. 676(a), 94-95, dated 23.12.1994 at Ponmeni Village, Bye-Pass Road, Madurai by adverting to the orders passed by the 1st respondent herein proceedings in Na.Ka.No.5609/2012/C, dated 31.12.2015.

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2. Mr.M.Pandiyarajan, learned Additional Government Pleader takes notice for the respondents 1 to 4. Mr.G. Prabhurajadurai, learned counsel takes notice for the 5th respondent. By consent of both parties, the Writ Petition is disposed of at the admission stage itself.

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3. It is represented by the learned counsel appearing for the petitioner that despite several surveys being conducted on previous occasions, the fourth respondent has been repeatedly insisting upon the Official respondents to conduct survey of the property in S.Nos. 62 and 66/7 in Patta No.R.T.R.No.676(a) 94-95, dated 23.12.1994. It is further represented that the 4th respondent has been creating a lot of trouble and causing hindrance to the petitioner by way of frequent survey. Aggrieved by the same, the petitioner is before this Court with the aforesaid relief.

4. Mr. Prabhu Rajadurai, learned counsel appearing for the 5th respondent drew the attention of this Court to the Memorandum, dated 16.09.2020, from which it could be seen that the Survey Number mentioned therein is completely different. Learned counsel also submitted that the 5th respondent has no objection in survey of the property by giving certain directions / guidelines, so that a quietus can be given to the entire issue.

5. Though the petitioner seeks a direction to the 4th respondent not to conduct survey of the property in question, considering the facts and

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circumstances of the case, this Court is of the view that unless or until survey is conducted, there is every possibility of the issue being prolonged for years together instead of attaining its finality. We are now in the era of global digitalization and by use of advanced technology / machinery, the survey could be easily done, so as to bring the issue to a logical end with the satisfaction of both parties.

6. Therefore, a direction is issued to the 2nd respondent to depute a devoted and honest Surveyor for survey of the property in question in the presence of both parties and after survey, the Surveyor, while sending the report to the authorities concerned, shall ensure that a copy of the recorded version is also forwarded along with it, so that the issue between the parties can be decided in one way or the other. The entire exercise shall be completed within a period of two months from the date of receipt of a copy of this order.

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7. At this juncture, this Court thinks it fit to draw certain guidelines to be followed, in respect of survey of the properties in future by the authorities concerned, which are as under:

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i) On receipt of charges towards Survey or Resurvey, it should be conducted within a period of 30 days from the date of such receipt and in case of failure on the part of the authorities to do so, the cost of application shall be returned to the parties, apart from recovery of a sum of Rs.2,500/- from the salary of the concerned Officials, responsible for execution of the job and also initiation of departmental proceedings against them and those errand officers must be identified and placed under suspension and even dismissed from service for their misconduct, dereliction of duty, showing no devotion to work, lack of integrity, so as to deprive their entire gratuity and terminal benefits under the head "moral turpitude", thereby failing to maintain absolute integrity in discharging his/her official duties. The details of such Officers stated supra together with his / her Aadhar Number shall be incorporated and adverse remarks shall be entered in the Service Register of the concerned Officers, so as to deprive their further promotions in their career. In case of failure to do survey, the concerned Official / Surveyor shall be displaced to a non-sensitive post;

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ii) A Register shall be maintained, in which details, such as name of the person, who has gone for survey, area of survey, date of survey, completion of survey, reason for not surveying the property, etc., should be

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entered periodically and verified by the Superior Officer. The complete details shall be available to the parties concerned or any person, when required under the Right to Information Act and Section 8 of the said Act or any other provision shall not be quoted to deprive the details to the person, who requires it;

(iii) The Respondents 1 to 4 shall make use of Drone Technology in order to conduct accurate survey of the property, which will throw light with regard to encroachment on Government lands, like OSR, Public Roads, Parks, Lakes, Odai, etc.

(iv) Pendency of litigation before Courts is not a bar for the authorities to conduct survey or resurvey in the absence of any stay / interim order / interim injunction from proceeding further;

(v) In cases relating to pending civil dispute, the parties are at liberty to approach the appropriate forum for conducting Survey or Resurvey of the property in question by making necessary application and the same shall be considered by the appropriate forum in accordance with law;

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(vi) The entire process of survey or resurvey shall be photographed and videographed by the authorities concerned even in the absence of suitable orders to that effect and the copies of documents shall be furnished to the parties concerned on receipt of necessary charges;

(vii) In the event of any public documents sought for by any of the parties in connection with the property in question, under the Right to Information Act, duly certified copies should be provided to such parties and it should not be denied by merely quoting some provisions of the RTI Act, more particularly, Section 8 of the said Act, unless there is any interim order operating against the parties concerned in respect of disbursement of the documents sought for by the parties. The name, designation, employment number, if any Aadhar Card details, shall be furnished in the certification;

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(viii) It is needless to mention that obviously, the entire charges for survey or resurvey of the property shall be paid by the parties concerned or it should be equally borne them, depending upon the facts of each case. In case of delay on the side of the Authorities, the costs should be borne by

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them from their personal funds;

(ix) A constant vigil at the Officials of every Revenue Departments is absolutely necessary to regulate the revenue related works and the Vigilance Department shall be brought into action to curb the demand of bribe by them, especially Surveyors;

(x) In case of request for issuance of Patta after survey, apart from the aforesaid guidelines, the directions issued by this Court in W.P.(MD) No.7746 of 2020 batch on 23.09.2020 shall have to be adhered to;

(xi) The Government is directed to issue a circular in this regard, incorporating the above guidelines within a period of one month from the date of receipt of a copy of this order.

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8. It is very unfortunate that Officials are demanding bribes even for doing their duties, forgetting the fact that they are paid salary by the Government for the said works and the some of the Surveyors think that they are inducted into the Revenue Department to accumulate wealth for themselves and not to generate revenue for the Government. In olden days,

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Tamil Nadu was regarded as a best State in administration and due to the act of some of the corrupt Officials, the said laurel has now disappeared and vanished.

9. With the above directions, the writ petition, while negativing the prayer sought for by the petitioner, is disposed of. No costs.

Call on ***23.11.2020*** for reporting compliance in respect of issuance of Circular to the concerned Departments.

05.10.2020

Index : Yes / No
Internet : Yes / No
trp/ar

Note: Registry is directed to send a copy of this order to the Chief Secretary, St.George Fort, Chennai forthwith.
Issue order copy on 09.10.2020.

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S. VAIDYANATHAN, J.,
trp/ar

To:

1. The Revenue Divisional Officer,
O/o. the Revenue Divisional Officer,
Madurai, Madurai District.

2.The Thasildar,
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