

**K.Ramadoss Vs. the Tahsildar and ors.**

**K.Ramadoss Vs. the Tahsildar and ors.**

**SooperKanoon Citation :** [sooperkanoon.com/927706](http://sooperkanoon.com/927706)

**Court :** Chennai

**Decided On :** Jun-11-2012

**Judge :** Vinod K.Sharma, J.

**Acts :** Tamil Nadu Survey and Boundaries Act, 1923 - Section 10, 11; [Constitution of India](#) - Articles 226

**Appeal No. :** Writ Petition No.26643 of 2011

**Appellant :** K.Ramadoss

**Respondent :** The Tahsildar and ors.

**Advocate for Def. :** Mr.V.Jayaprakash Narayanan, Adv.

**Advocate for Pet/Ap. :** Mr.R.M.Venkatesh, Adv.

**Judgement :**

Petition filed under Article 226 of the [Constitution of India](#) praying for the issuance of writ of Mandamus directing the 1st respondent to point out field and mark the boundary line of the petitioners' property situated in Sundarasholavaram Village, Poonamallee Taluk, Thiruvallur District, comprised in Paimash Nos. 64, 65, 66 and 67 in Survey No.12/6, registered as Document No.3293 of 1972 at SRO Poonamallee, measuring an extent of 5.65 acres in the presence of the third respondent pursuant to the petitioners' application dated 23.02.2010 and 12.08.2010.

## ORDER

1. The petitioners have approached this Court, with the prayer for issuance of writ in the nature of mandamus, or any other writ or direction for directing the first Respondent to point out field and mark the boundary of the petitioners' property situated in Sundarasholavaram Village, Poonamallee Taluk, Thiruvallur District, comprised in Paimash Nos. 64, 65, 66 and 67 in Survey No.12/6, registered as Document No.3293 of 1972 at SRO Poonamallee, measuring an extent of 5.65 acres.

2. The petitioners are the joint owners of the property situated at Sundarasholavaram Village, Poonamallee Taluk, Thiruvallur District, comprised in Paimash Nos. 64, 65, 66 and 67 in Survey No.12/6 measuring an extent of 5.65 acres and situated within the Registration District of Chennai and Sub-Registration District of Poonamallee.

3. The land was purchased from one Mr.S.Kanniah S/o Late Mr.Sampangi Naidu under a registered sale deed dated 26.05.1972. The petitioners claim to be the joint owners in possession of the land and paying all public dues.

4. The petitioners being not sure about the boundaries of the property, filed an application under Section 10 of the Tamil Nadu Survey and Boundaries Act, 1923 (hereinafter referred to as 'the Act') before the first respondent on 23.02.2010 followed by the reminder dated 12.08.2010.

Section 10 of the Act reads as under:-

"10. Power of survey officer to determine and record a disputed boundary:-

(1) Where a boundary is disputed, the survey officer, after making such inquiry as he considers necessary, shall determine the boundary and record it in accordance with his decision. The survey officer shall record in writing the reasons for his decision.

(2) Notice to parties to the dispute and to registered holders of lands affected:-

Notice of every decision for the survey officer under Section 10(1) shall be given in the prescribed manner to the parties to the dispute and other registered holders of the lands the boundaries of which may be affected by the decision."

5. The submission of the petitioners is that inspite of filing that application in a prescribed form, the respondents have failed to carry out the measurement, and thus, failed to perform their statutory duty.

6. The writ petition is opposed by the learned counsel appearing on behalf of Respondents 4 and 5 by contending that the application moved by the petitioners under Section 10 of the Act is not sustainable in Law, as it is the Respondents 4 and 5 who are the owners in possession of the land in question, therefore, the petitioners have no locus standi to claim the demarcation of boundaries of the said land by moving an application under this Act.

7. On consideration, I find that the petitioners have been prima facie successful to show that they moved statutory application under Section 10 of the Act, for demarcation of the boundaries in view of dispute by respondents No.4 and 5.

8. The Act imposes statutory obligation, on the second Respondent to decide the application moved under Section 10 of the Act by passing appropriate Quasi Judicial Order.

9. Exercise of power under Section 10 of the Act are Quasi Judicial power, which cannot be regulated by the first Respondent, as the party aggrieved by the order under Section 10 of the Act has a remedy of appeal under Section 11 of the Act and thereafter, remedy of Revision.

10. The petitioners have been able to show their legal right to have as well as the legal statutory obligation on the part of the second Respondent, who inspite of having statutory application, has failed to perform the legal statutory duty.

11. In view of the fact, that the Respondents 4 and 5 claiming to be owners in possession and opposing the application moved by the petitioner, it will be appropriate at this stage to dispose of this writ petition by directing the second Respondent to take decision on the application moved by the petitioner under

Section 10 of the Act, and pass detailed speaking order by following due process of Law i.e. by giving opportunity to the parties interested.

12. The said exercise be carried out within two months of the date of receipt of certified copy of this order.

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**