



W.P.No.5612 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2025

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**

and

THE HONOURABLE MR.JUSTICE **HEMANT CHANDANGOUDAR**

W.P.No.5612 of 2024

M.Rajasekar

... Petitioner

Vs.

1.The Secretary to the Government of
Tamil Nadu, Revenue Department,
St. George Fort, Chennai – 600 009.

2.The District Collector,
Thiruvannamalai, Thiruvannamalai District.

3.The Block Development Officer,
Kilpennathur Taluk, Thiruvannamalai District.

4.The Revenue Divisional Officer,
Thiruvannamalai District.

5.The Tahsildar,
Kilpennathur Taluk,
Thiruvannamalai District.

6.Thirumoorthy

7.Moorthy

8.Menon

9.Joseph Paul

... Respondents

Writ Petition filed under Article 226 of The Constitution of India
praying to issue a Writ of Mandamus directing the respondents 2 to 5

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to remove the encroachment made by the respondents 6 to 9 in S.F.Nos.266/2 (0.5 ares), 265/2 (0.9 ares) and 250/3 (0.05.0 ares) (Government poromboke land), Kadambai Sirukothan Village, Keelpennathur Taluk, Thiruvannamalai and laying stone as per representation of the petitioner dated 03.11.2022 and 15.11.2022.

For Petitioner : Mr.E.Vijayakumar

For Respondents : Mr.M.S.Arasakumar,
Government Advocate for R1 to R5

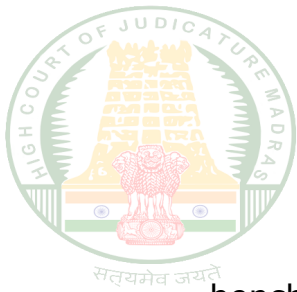
ORDER

[Order of the Court was made by **M.SUNDAR, J.,**]

Captioned 'Writ Petition' (hereinafter 'WP' for the sake of brevity) has been filed with removal of encroachment prayer.

2. Today, captioned WP is listed under the cause list caption 'FOR DISMISSAL' and Mr.E.Vijayakumar, learned counsel for writ petitioner expresses regret and tenders apology for missing the matter yesterday (05.06.2025). Apology is accepted.

3. Learned counsel for writ petitioner is ready to advance arguments. Mr.M.S.Arasakumar, learned Government Advocate for official respondents/R1 to R5 is before this Court.



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4. Earlier proceedings bring to light that predecessor Division bench has appointed an Advocate Commissioner. It now comes to light that the Advocate Commissioner has done a local inspection and filed a report dated 12.04.2024 and a scanned reproduction of the report is as follows:

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Special Original Jurisdiction)
W.P.No.5612 of 2024

M.Rajasekar
S/o Murugesan,
Kollakotta Kanapapuram Road,
Kadambai Sirukothan Village,
Kilpennathur Taluk,
Tiruvannamalai District-606-611

...Petitioner

Versus

The Secretary to the
Government of Tamil Nadu,
Revenue Department,
St.George Fort,
Chennai-600009 and 8 others

...Respondents

REPORT FILED BY THE ADVOCATE COMMISSIONER

I, A.M.Abishek, Advocate, with Enrolment No. Ms.5778/2022 and having Office at No.257, 2nd Floor, Canara bank building, Angappa Naiken Street, Parry's, Chennai-600001, do hereby submit this report upon execution of the Warrant dated 21.03.2024 issued by this Hon'ble Court in the matter of W.P.No.5612 of 2024 and state as follows:

1. I submit that this Hon'ble Court by order dated 21.03.2024 has appointed me as Advocate Commissioner in the matter of M.Rajasekar vs. The Secretary to the Government of Tamil Nadu & others in W.P.No.5612 of 2024 to visit writ site and to submit a report about the nature of the writ site and whether there is an encroachment on S.F.No.266/2 (0.5 ares), S.F.No.265/2 (0.9 ares), S.F.No.250/3 (0.05.0 ares) situated at Kadambai Sirukothan Village, Kilpennathur Taluk, Thiruvannamalai District. The relevant portion of the order dated 21.03.2024 is extracted hereunder:

"4. In the light of the submission made by the learned counsel for the petitioner, Mr.A.M.Abishek, Advocate, Enrolment No.5778/2022 (Mobile No.8778496118), having office at No.257,



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2nd Floor, Canara bank building, Angappa Naiken Street, Parry's, Chennai, is appointed as Advocate Commissioner. The Advocate-Commissioner shall visit the subject writ site and submit his report about the nature of the writ site and whether there is an encroachment on it. The petitioner shall pay Rs.35,000/- [Rupees Thirty-Five Thousand only] directly to the Advocate-Commissioner towards his fees. The report shall be submitted on or before 12.04.2024"

2. I submit that I had received the Commission Warrant on 27.03.2024, pursuant to the order dated 21.03.2024 appointing me as an Advocate Commissioner. On receiving the warrant, I issued notice on 28.03.2024 to all parties, their counsels as well as Official Respondents, calling upon them to be present at the site of inspection on 04.04.2024 for executing the warrant and also requested the respondents 3 & 5 to bring the Revenue Records and documents related to the above-mentioned survey numbers.
3. I submit that I had issued 12 notices and out of 12, two notices were returned. Notice sent to 9th respondent was returned as "Addressee left without instruction, Return to the sender" and notice sent to 8th respondent was returned as "Addressee refused, so return to the sender". By following this I informed the 8th respondent through phone and 9th respondent through E-mail and requested them to be present at the site on 04.04.2024 as per the notice.
4. I submit that in compliance to the said notice, I reached the site around 10.15 AM and the parties, their respective counsel and the Revenue Officials assembled at 10.30 AM at the inspection site. Accordingly, I perused the revenue records which were produced by the Revenue Officials in order to ascertain the nature of the writ site and the records clearly shows that S.F.No.250/3, 265/2 and 266/2 are Government Lands and all the said



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survey numbers are within the jurisdiction of Somasipadi Village. By following this we had started the inspection at 10.30 AM.

5. Observations:

1. I submit that the starting point of the Pattai and Kaalvaai is far from the writ site so we decided to start the measurement from S.F.No.250. We found that the Pattai and Kaalvaai travels through writ sites, S.F.No.250/3, 265/2 and 266/2, Somasipadi Village and ends at Sirukothan Lake.
2. I submit that as per the order passed by this Hon'ble Court, we measured the writ sites S.F.No.250/3, 265/2 and 266/2 and also the adjacent lands and compared the measurements taken with the revenue records. All the measurements were tallied with the FMB and the revenue records.

6. Answer to the tasks and question of the Hon'ble High Court provided in the Warrant:

I submit that this Hon'ble Court directed me to file a report regarding the nature of the writ site and whether there is encroachment on it. Therefore, I am answering accordingly:

1. On perusal of the revenue records, it is clear that the nature of the writ site is "Sarkar (Government) Poramboke Land", whereas the said survey numbers are classified as:
 - i. S.F.No.250/3 as "Pattai and Kaalvaai",
 - ii. S.F.No.265/2 as "Pattai".
 - iii. S.F.No.266/2 as "Pattai and Kaalvaai".
2. There is encroachment in S.F.No.250/3, 265/2 and 266/2 as follows:



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i) Survey No.250/3:-

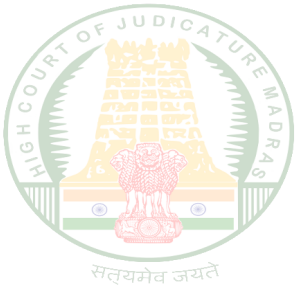
1. The land in said S.F.No.250/3 is a "Sarkar Poramboku land" whereas it is mentioned as "Pottai and Kaalvaai" in the A-register Extract of Somasipadi Village.
2. The said survey number is encroached by the adjacent land owner Mrs.Amudha W/o Thirumoorthy, carrying out agricultural activities in the said land. The encroached portion has been marked in blue colour in the FMB Sketch of S.F.No.250/3.
3. The total measurement of S.F.No.250/3 is 12½ Cents whereas Mrs.Amudha w/o Thirumoorthy has encroached 11 Cents.

ii) Survey No.265/2:-

1. The land in said S.F.No.265/2 is a "Sarkar Poramboku land" whereas it is mentioned as "Pottai" in A-register Extract of Somasipadi Village.
2. A road laid by the Municipality from Somasipadi to Kannappaaram passes through the said survey number. The Southern portion of S.F.No.265/2 is encroached by the adjacent land owners Mrs.Amudha W/o Thirumoorthy and Mr.Moorthy S/o Varathapillai. The encroached portion is specifically marked in red and blue colour in the FMB Sketch of S.F.No.265/2, whereas red colour is the encroachment done by One Mr.Moorthy and blue colour is the encroachment done by One Mrs.Amudha.
3. The measurement Southern portion of S.F.No.265/2 is 2 Cents whereas Mrs.Amudha W/o Thirumoorthy has encroached 0¾ Cents and Mr.Moorthy has encroached 0¾ Cents.

iii) Survey No.266/2:-

1. The land in said S.F.No.266/2 is a "Sarkar Poramboku land" whereas it is mentioned as "Pattai and Kaalvaai" in the A-register Extract of Somasipadi Village.



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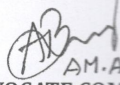
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2. The said survey number is encroached by the adjacent land owner Mr.Moorthy S/o Varathapillai and the encroacher had further erected a fence in the said premise along with his land. The encroached portion has been marked in red colour in the FMB Sketch of S.F.No.266/2.
3. The total measurement of S.F.No.266/2 is 12½ Cents whereas Mr.Moorthy S/o Varathapillai has encroached 2 Cents.

7. I submit that the Revenue Officials and the parties had co-operated with me and were available at the inspection site from 10.30 AM to 12.00 AM, and with their support we were able to inspect all the mentioned survey numbers. I had personally taken photographs and with the assistance of the officials present, I had completed the inspection on 04.04.2024 and filing this report. I submit that the surveyor report, FMB Sketch and other relevant records are annexed along with this report for the kind perusal of this Hon'ble Court.

Hence, in pursuance of the order passed by this Hon'ble Court, it is submitted that the warrant has been executed and I am herewith submitting my report along with annexure containing the Survey Report, FMB sketch, A-register extract given by the Sub-Inspector of Survey, Somasipadi (Firka) and photographs of S.F.No.250/3, 265/2 and 266/2. Thus, I humbly pray that this Hon'ble Court may be pleased to accept the report and pass appropriate orders as it may deem fit in light of the facts and circumstances of the case and thus render justice.

Dated at Chennai on this the 12th day of April, 2024


A.M. Abishek, Ms. 5714/2022
ADVOCATE COMMISSIONER



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5. This Court is of the considered view that it would be appropriate to relegate this matter to the jurisdictional Divisional Monitoring Committee viz., Revenue Divisional officer, Thiruvannamalai District (R4).

6. R4 is directed to kickstart proceedings by applying G.O.(Ms)No.64, Revenue and Disaster Management Department, Land Disposal Wing, dated 08.02.2022 {hereinafter 'said GO' for the sake of convenience} i.e., by issuing notice to the writ petitioner, private respondents/R6 to R9 and/or any other alleged encroachers and give them an opportunity. In this view of the matter, we make it clear that all the rights and contentions of R6 to R9/private respondents and any other similarly placed persons who may be visited with a notice stand preserved. This order will not touch upon the rights of private respondents and/or any other similarly placed persons. Therefore, we are dispensing with notice to private respondents/R6 to R9 and taking up the main WP with the consent of learned counsel for writ petitioner and learned State counsel.



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7. When R4 kickstarts proceedings, let all the parties be favoured with a copy of the report of the Advocate Commissioner and given an opportunity to file objections if any i.e., if so advised and if so desired. The objections shall also be considered by R4.

8. Let R4 commence, continue and conclude the proceedings vide said GO as expeditiously as the business of R4 would permit but in any event within fourteen weeks from today i.e., on or before 12.09.2025.

9. Captioned WP is disposed of in the aforesaid manner. There shall be no order as to costs.

(M.S.,J.)

(H.C.J.)

06.06.2025

Index : Yes / No

Neutral Citation : Yes / No

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To

1.The Secretary to the Government of
Tamil Nadu, Revenue Department,
St. George Fort, Chennai – 600 009.

2.The District Collector,

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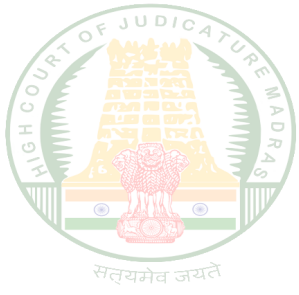
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Thiruvannamalai, Thiruvannamalai District.

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Thiruvannamalai District.

5.The Tahsildar,
Kilpennathur Taluk,
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**M.SUNDAR, J.,
and
HEMANT CHANDANGOUDAR, J.,**

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