



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED : 24.09.2018  
CORAM  
THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P. (MD) No.17503 of 2018  
and  
W.M.P (MD) No.15385 of 2018

R.Alagarsamy Naidu

... Petitioner

Vs.

1.The Commissioner,  
Madurai Corporation,  
Madurai.

2.The Assistant Commissioner,  
East Zone,  
Madurai Corporation,  
Madurai.

3.Mr.Sundaraja Naidu

...Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the impugned order of the 2nd Respondent in Ma3A15/00493018 dated 27.07.2018 and quash the same as illegal and consequently restrain the Respondents 1 and 2 from surveying the property in T.S.No.659 Ward No.57, Muthukrishna Naidu Lane, Anuppanadi, Madurai, till the disposal of the enquiry pending on the file of the Principal District Court, Madurai regarding the tampering of records.

For Petitioner : Mr.M.Kannan  
For Respondents : Mr.R.Murali, for R1 & R2  
Mr.T.Lajapathy Roy for R3

**ORDER**

What is challenged in the writ petition is the notice issued by the second respondent dated 27.07.2018 seeking to survey the subject land.

2.When the matter is taken up for hearing, the learned counsel appearing for the third respondent would submit that the entire survey has been undertaken only in pursuance of the direction of the Hon'ble Division Bench of this Court passed in W.A(MD)No.1262 of 2015 dated 31.01.2017. He would draw the attention of this Court to paragraph 5 of the order passed by the Hon'ble Division Bench, which reads as under:-



"5. In view of the above, the second and third respondents herein are directed to measure the property in question as per the plan annexed with the Advocate Commissioner's report filed before the Additional District Munsif Court, Madurai Town in O.S.No.2056 of 2004. However, if there is any dispute during measurement, the parties can work out their remedy before the Civil Court concerned."

3. In view of the specific direction of the Hon'ble Division Bench of this Court in the aforesaid writ appeal, this Court does not think that the present writ petition can be entertained at the instance of the petitioner. At this stage, the learned counsel appearing for the petitioner would vehemently contend that there has been a fraud played by the third respondent in tampering the records, for which, an enquiry was ordered and the District Judge has submitted a report. However, this Court cannot take into account such submission in view of the specific direction issued by the Hon'ble Division Bench of this Court to survey the subject land. In case the petitioner seeks support of the District Judge's report to put his defence as against the third respondent, it is always open to the petitioner to move an application before the Hon'ble Division Bench and seek appropriate relief.

4. With the above said observation, this writ petition is closed. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-  
Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar(CS-I)

+1CC to Mr.M.Kannan, Advocate, SR.No.86580  
+1CC to Mr.T.Lajapathy, Advocate, SR.No.86279  
+1CC to Mr.R.Murali, Advocate, SR.No. 86305

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SKN  
ES/PM/SAR 1/27.10.2018/2P/4C