



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

W.P. (MD) No.20184 of 2018

P.Sundararaj

... Petitioner

Vs

1.The District Collector,
Collectorate,
Sivagangai District.

2.The Adi-Diravidar Welfare Officer,
Adi-Diravidar Welfare Department,
Sivagangai District.

3.The Special Tahsildar,
Adi-Diravidar Welfare,
Taluk Office,
Ilayangudi Taluk,
Sivagangai District.

4.The Taluk Surveyor,
Ilayangudi Taluk,
Sivagangai District.

5.Pandi

... Respondents

(R5 is impleaded vide Court order dated 22.02.2019 in W.M.P(MD).
No.22252 of 2018 in W.P(MD).No.20184 of 2018)

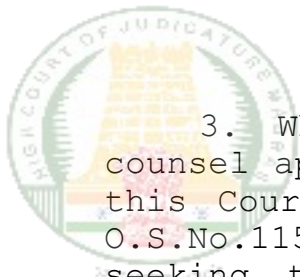
PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the respondents to measure the petitioner's land by considering the petitioner's representation dated 09.07.2018 within the stipulated period as fixed by this Court.

For Petitioner	: Mr.K.Rajeshwaran
For R1 to R4	: Mr.M.Karuppasamy
	Government Advocate
For R5	: Mr.M.S.Jeyakarthik

ORDER

Heard the learned counsel on either side.

2. The petitioner wants the land in Survey No.145/1B 2B1,
Perumbacheri Village, Ilayangudi Taluk, Sivagangai District to be
measured and surveyed.



3. When the matter was taken up for hearing the learned counsel appearing for the fifth respondent brought to the notice of this Court that his father Alagu Thevar along with others filed O.S.No.115 of 1993 before the District Munsif Court, Manamadurai seeking the relief of declaration and permanent injunction in respect of the very same property. The Government alone was the defendant in the said suit. In the said suit, the writ petitioner herein along with two others filed I.A.No.23 of 1995 for getting themselves impleaded. According to the petitioner in the said Interlocutory Application, they had already been assigned with the suit land in question and that therefore, they must be heard. But the learned Trial Munsif by order dated 28.08.1995 dismissed the said Interlocutory Application filed by the petitioner and two others. Admittedly, the petitioner did not take further proceedings to question the said order. The suit itself ultimately came to be decreed on 17.09.1996 against the Government.

4. The Government preferred A.S.No.47 of 1997 before the Principal District Judge, Sivagangai. The First Appellate Court dismissed the appeal filed by the Government on 25.11.1997. It is this property that is now sought to be surveyed and measured at the instance of the writ petitioner.

5. This Court has consistently taken the view that a direction for survey and demarcation can be given only if there is no dispute or the rival claim. But in this case there is a strong bonafide dispute raised by the fifth respondent. The fifth respondent is basing his opposition on the strength of a civil Court decree. As already pointed out, the petitioner's attempt to get himself impleaded in the said civil proceedings ended in vain. In these circumstances, the relief sought for cannot be granted. It is for the writ petitioner to establish his right before the Civil Court and thereafter, demand a survey.

6. The Writ Petition is dismissed with above observations. No costs.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar (CS)

rmk

To

1.The District Collector,
Collectorate,
Sivagangai District.



2.The Adi-Diravidar Welfare Officer,
Adi-Diravidar Welfare Department,
Sivagangai District.

3.The Special Tahsildar,
Adi-Diravidar Welfare,
Taluk Office,
Ilayangudi Taluk,
Sivagangai District.

4.The Taluk Surveyor,
Ilayangudi Taluk,
Sivagangai District.

+1CC TO MR.K.RAJESHWARAN, Advocate Sr. No.56755
+1CC TO MR.M.S.JEYAKARTHIK, Advocate Sr. No. 56110
+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 56315

W.P.(MD)No.20184 of 2018

TR (25.04.2019) 3P 8C