



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 08.10.2020**

**CORAM**

**THE HON'BLE MR.JUSTICE S.VAIDYANATHAN**

**WEB COPY**

**W.P. (MD) No.2287 of 2019**

M.Balakrishnan

... Petitioner

-Vs-

1.The District Collector,  
Madurai District, Madurai.

2.The Commissioner,  
Madurai Municipal Corporation,  
Madurai.

3.The Tahsildar,  
Madurai North Taluk,  
Madurai.

4.The Town Survey Officer,  
Madurai Corporation,  
Madurai.

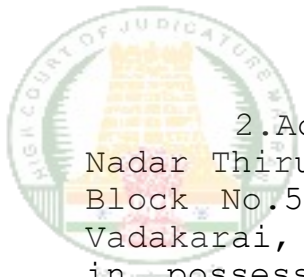
... Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a writ of Mandamus, directing the 2<sup>nd</sup> and 4<sup>th</sup> respondents to effect survey and make necessary changes in the Town Survey Register for petitioner's property in Survey No.97/1, Ward No.10, Block No.5(now Ward No.8), New Ward No.35, situated in Vaigai Vadakarai, Madichiyam, Madurai Town, by considering the petitioner's application dated 09.10.2017 within the period as stipulated by this Court.

|                   |   |                                       |
|-------------------|---|---------------------------------------|
| For Petitioner    | : | Mr.A.Haja Mohideen                    |
| For R1, R3 and R4 | : | Mr.M.Murugan,<br>Government Advocate. |
| For R2            | : | Mr.T.S.Mohammed Mohideen              |

**ORDER**

The petitioner has come forward with this Writ Petition, seeking a direction to the respondents 2 and 4 to effect survey and make necessary changes in the Town Survey Register for petitioner's property in Survey No.97/1, Ward No.10, Block No.5(now Ward No.8), New Ward No.35, situated in Vaigai Vadakarai, Madichiyam, Madurai Town, by considering the petitioner's application dated 09.10.2017, within the period as stipulated by this Court.



2. According to the petitioner, the property of A.R. Periyasamy Nadar Thirukkan Mandapam in Madurai Town Survey No.97/1, Ward No.10, Block No.5, (now Ward No.8), New Ward No.35, situated in Vaigai Vadakarai, Madichiyam, Madurai, belongs to the petitioner and he is in possession and enjoyment of the same through a registered settlement deed dated 14.09.2005. The petitioner in order to ascertain the correct position of the records about the said property, has applied through Right to Information for which, the second respondent has replied that the records were damaged. Therefore, the petitioner has made an application to effect mutation and changes in the Town Survey Register on 09.10.2017. So far, no effective steps have been taken by the respondents on the application of the petitioner. Hence, the petitioner has approached this Court, seeking aforesaid prayer.

3. The learned Government Advocate appearing for the respondents 1, 3 and 4 would submit that a Civil Suit in O.S.No.185 of 2019 on the file of the Court of Principal District Munsif, Madurai, is pending.

4. This Court has already dealt with the matter in surveying the land and issuance of patta in W.P.(MD)No.13465 of 2020, by its order dated 05.10.2020 and issued certain guidelines to be followed at the time of effecting survey and issuing patta, which are extracted hereunder:-

" 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;

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 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;

(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;

(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 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."

5. In view of the above, since the civil suit is pending before the Court of Principal District Munsif, Madurai, the petitioner will have to work out his remedy only before the civil forum. If any application is made, the learned Principal District Munsif, Madurai may consider the request of the petitioner and after hearing necessary parties before him, pass appropriate orders in accordance with law.

6. The Government must ensure that a simple application is available online for the persons seeking survey and payment to be made online /NEFT/RTGS, as an application is required to be submitted, at the threshold, the official will demand bribe for the application and online process may curtail demanding of bribe / corruption. If any complaint is made against the surveyor, the department shall initiate departmental action and also conduct enquiry.

7. Accordingly, this Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

Myr

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To

1.The District Collector,  
Madurai District, Madurai.

2.The Tahsildar,  
Madurai North Taluk,  
Madurai.

3.The Town Survey Officer,  
Madurai Corporation,  
Madurai.

+1 CC to M/s.T.S. MOHAMED MOHIDHEEN, Advocate ( SR-19566[F] dated  
09/10/2020 )

+1 CC to M/s.GP ( SR-19605[F] dated 09/10/2020 )

Order made in  
**W.P. (MD) No.2287 of 2019**  
**08.10.2020**

**SMV (CO)**

**AP (22/10/2020) 5P 6C**