



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

**DATED: 24.11.2020**

CORAM:

THE HONOURABLE MR.JUSTICE **S. VAIDYANATHAN**

**W.P. (MD)No.16656 of 2020**

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V.Muthukrishnan

... Petitioner

-vs-

1.The District Collector,  
Dindigul District,  
Dindigul.

2.The Revenue Divisional Officer,  
Dindigul,  
Dindigul District.

3.The Tahsildar,  
Dindigul West Taluk,  
Dindigul District.

4.The Inspector of Police,  
Thadikombu Police Station,  
Dindigul District.

5.Karuppan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus forbearing the second and third respondents as well as the fifth respondent from interfering with the peaceful possession of the Petitioner in respect of the property in Survey Nos.44/2A, 44/2B and 44/1B situated at Seelappadi Village, Dindigul West Taluk, Dindigul District, based on the representations dated 11.09.2020 and 15.10.2020.

For Petitioner

: Mr.S.Mandhiralingeswaran

For Respondents

: Mr.M.Panidya Rajan

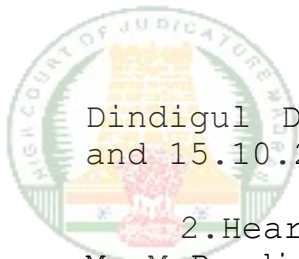
1 to 4

Additional Government Pleader

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**ORDER**

This writ petition is filed, seeking issuance of a Writ of Mandamus forbearing the second and third respondents as well as the fifth respondent from interfering with the peaceful possession of the Petitioner in respect of the property in Survey Nos.44/2A, 44/2B and 44/1B situated at Seelappadi Village, Dindigul West Taluk,



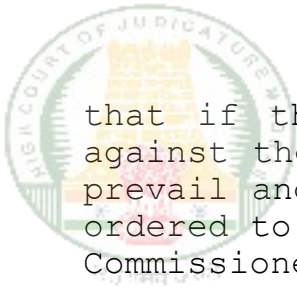
Dindigul District, based on the representations dated 11.09.2020 and 15.10.2020.

2. Heard the learned Counsel appearing for the petitioner and Mr.M.Pandiya Rajan, learned Additional Government Pleader, who took notice for the respondents 1 to 4. Since this Court is not going to pass any adverse orders against the fifth respondent, notice to him is dispensed with.

3. It is represented by the learned counsel appearing for the petitioner that the properties comprised in Survey Nos.44/2A, 44/2B and 44/1B situated at Seelappadi Village, Dindigul West Taluk, Dindigul District has been purchased by the petitioner's grandmother by name Mallayiammal and after her demise, her legal heirs including the petitioner are in possession and enjoyment of the said property. As there was a dispute between them, the petitioner filed a suit in O.S.No.319 of 2014 on the file of the Principal Subordinate Court, Dindigul for partition and the said suit was decreed in favour of the petitioner. While so, the fifth respondent illegally obtained patta bearing No.9799 in respect of Survey No.44/2A in his favour and filed a Writ Petition in W.P.(MD)No.10936 of 2020 before this Court seeking a direction to consider his representation dated 04.08.2020 to measure the property in Survey No.44/2A. This Court vide order dated 07.09.2020 passed an order directing the second respondent therein/third respondent herein, to consider the representation made by the fifth respondent and pass appropriate orders on merits and in accordance with law, after affording due opportunity of hearing to the fifth respondent herein and the rival parties, if any and if there is any objection from the rival parties, enquiry shall be conducted and communicate the decision of the same to the parties concerned. Pursuant to the said order, the petitioner made his objection before the third respondent stating that the fifth respondent has no valid title over the property in question and also a civil dispute is pending in O.S.No.268 of 2020 on the file of the Principal District Munsif Court No.1, Dindigul. Thereafter, the petitioner made representations to the first respondent on 11.09.2020 and 15.10.2020. Since there was no response and the fifth respondent is still interfering with the petitioner's peaceful possession, the petitioner has come forward with the present Writ Petition.

4. Mr.M.Pandiya Rajan, learned Additional Government Pleader appearing for the respondents 1 to 4 would submit that the petitioner has already filed a civil suit and he can work out his remedy before the civil forum.

5. Considering the fact that the petitioner has already filed a civil suit in O.S.No.268 of 2020 on the file of the Principal District Munsif Court No.1, Dindigul, which is pending, the prayer sought for in this Writ Petition cannot be granted. Accordingly, the Writ Petition is dismissed. However, this Court makes it clear



that if there is any interim order of the Civil Court operating against the fifth respondent, certainly, the Civil Court order will prevail and survey need not be done unless or otherwise the same is ordered to be done by the Civil Court by duly appointing an Advocate Commissioner assisted by a Surveyor. No costs.

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Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

SRM

To

- 1.The District Collector,  
Dindigul District,  
Dindigul.
- 2.The Revenue Divisional Officer,  
Dindigul,  
Dindigul District.
- 3.The Tahsildar,  
Dindigul West Taluk,  
Dindigul District.
- 4.The Inspector of Police,  
Thadikombu Police Station,  
Dindigul District.

+1cc to SPL GP SR.NO.22975

**W.P(MD)No.16656 of 2020**

**24.11.2020**

VB (07.01.2021) 3P 6C