



*W.P.(MD)No.15542 of 2012*

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **21.07.2022**

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**THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P.(MD)No.15542 of 2012**

**and**

**M.P.(MD)No.1 of 2013**

1.A.K.D.Venkataramana Raja

2.A.D.Saradha

3.R.Renganatha Raja

4.A.R.D.Ramachandra Raja

... Petitioners

Vs.

1.The District Collector,  
Virudhunagar District,  
Virudhunagar.

2.The Tahsildar,  
Taluk Office,  
Rajapalayam,  
Virudhunagar District.

3.The Superintendent of Police,  
Virudhunagar District,  
Virudhunagar.

4.The Inspector of Police,  
Rajapalayam North Police Station,  
Rajapalayam,  
Virudhunagar District.



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5. The President,  
Melapattam Karisalkulam Panchayat,  
MPK Pudupatty Post,  
Rajapalayam – 626 117,  
Virudhunagar District.

... Respondents

**PRAYER :** Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned memorandum bearing Oo.Mu.No.FLA.215/2, 284/12, 323/12 dated 15.10.2012 issued by the second respondent and quash the same and consequently direct the second respondent to demarcate the four boundaries of the petitioner's land comprised in Survey No.281/2 to 281/6, Melapattam Karisalkulam Village, Rajapalayam Taluk, Virudhunagar District if necessary by taking police aid.

For Petitioners : Mr.S.Venkatesh  
for Mr.A.Sivaji for P1, P2 & P4  
No appearance for P3

For Respondents : Mr.N.Muthuvijayen  
Special Government Pleader  
for R1 to R4  
Mr.M.Jothi Basu for R5



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### **ORDER**

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The present writ petition has been filed challenging a Memo issued by the second respondent herein under which the request of the petitioners for survey of their lands have been rejected on the ground that the fifth respondent has objected to the survey, projecting that they are going to file an appeal as against the judgment and decree in A.S.No.262 of 2007.

2. According to the learned Counsel for the petitioners, the survey Nos.281/2 to 281/6 belongs to them and they would like to survey their lands and demarcation of boundaries for the said survey numbers. Their request was rejected by the second respondent herein, challenging the same, the present writ petition has been filed

3. The learned Counsel appearing for the fifth respondent has contended that the entire survey No. 281 is a Natham Kalam and Anganvadi Center, Over Head Tank and Public toilet are located in the said survey number. Hence, the Panchayat has got objections for

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surveying the said survey number and demarcating the boundaries.

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4. A perusal of the impugned order shows that the fifth respondent had proposed to file an appeal as against the judgment and decree made in A.S.No.262 of 2007. A perusal of the judgment and decree in A.S.No.262 of 2007, reveals that the judgment has been passed on 09.01.2009. In the said suit, two persons in their individual capacity and also as representatives of Melapattam Karisalkulam Village, Kodhanachiyarpuram Village, have filed a suit as against the District Collector, Viruthunagar District and Tahsildar, Rajapalayam, that their possession of the disputed survey numbers having an Anganvadi, over head tank, public toilet and kalam poromboke should not be disturbed. The said suit have been dismissed 12 years back, so far, no appeal has been filed either by the said plaintiffs or by the Panchayat. In fact, the impugned order has been passed by the Tahsildar, Rajapalayam, who was the second defendant in the said suit. Hence, the reasons assigned in the impugned order for not accepting the request for survey are not legally sustainable .



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5. The learned counsel appearing for the respondents has placed a written instructions received by him on 14.07.2022. In the said written instructions, the second respondent has agreed to carry out the survey and demarcation of boundaries provided fresh applications are made by the writ petitioners along with the requisite fee.

6. In view of the above said discussion, the following orders are passed:

- (i) The impugned order, dated 15.10.2012, is set aside
- (ii) The petitioners are directed to file a fresh application along with the requisite fee for conducting the survey and demarcation of boundaries.
- (iii) The respondents are at liberty to take police protection for demarcation of boundaries
- (iv) After survey and demarcation of boundaries, if it is found that the buildings of the fifth respondent are located in the said land, the petitioners shall approach the Civil Court.



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The said exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.

7. With the above said observations, this Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

**21.07.2022**

Index : Yes / No  
Internet : Yes / No  
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To

- 1.The District Collector,  
Virudhunagar District,  
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- 2.The Tahsildar,  
Taluk Office,  
Rajapalayam,  
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- 3.The Superintendent of Police,  
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**R.VIJAYAKUMAR ,J.**

jbr

4.The Inspector of Police,  
Rajapalayam North Police Station,  
Rajapalayam,  
Virudhunagar District.

Order made in  
W.P.(MD)No.15542 of 2012

**21.07.2022**