



WEB COPY

W.P.No.26501 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.09.2023

CORAM

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM**

**W.P.No.26501 of 2023**

A.P.Arumugam

...Petitioner

Vs.

1.The District Collector,  
The Collectorate,  
Salem District,  
Salem - 636 001.

2.The District Revenue Officer,  
Salem District,  
Fort Main Road,  
Salem - 636 007.

3.The Revenue Divisional Officer,  
Attur Taluk,  
Salem District,  
Attur - 636 005.

4.The Thasildar,  
Attur Taluk,  
Salem District,  
Attur - 636 103.

5.The Commissioner,  
Attur Municipality,  
Salem District,  
Attur - 636 102.

...Respondents



**Prayer:** Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the 2<sup>nd</sup> respondent to take the petitioner's appeal on file and direct the 4<sup>th</sup> respondent to re-survey the land and issue patta in Survey No.578/2, Attur Village, Salem District, considering the petitioner's representation dated 21.12.2022.

For Petitioner : Mr.C.J.Baskar Narayan

For R1 to R4 : Mr.T.Arun Kumar  
Additional Government Pleader

### **ORDER**

The relief sought for in this writ petition is to direct the 2<sup>nd</sup> respondent to take the petitioner's appeal on file and direct the 4<sup>th</sup> respondent to re-survey the land and issue patta in Survey No.578/2, Attur Village, Salem District, by considering the petitioner's representation dated 21.12.2022.

2. The issues raised in the present writ petition were adjudicated by this Court in a batch of writ petitions in ***W.P.No.37519 of 2016 [S.Sakkarai Vs. The Tashildhar, Dharmapuri District] etc., and batch***, and a judgment was delivered on 19.06.2023 and the relevant paragraphs of the judgment are extracted hereunder:

*“36. Section 9 of the Code of Civil Procedure unambiguously contemplates that “The Courts shall*



37. Therefore, a special enactment has no relevance with reference to a right of the parties to approach the competent Civil Court of law to resolve all nature of civil disputes including boundary dispute, survey dispute, title dispute, ownership or otherwise. Therefore, neither the parties nor the authorities need to create an impression that in the event of boundary dispute, the parties have to approach the authorities at the first instance. It is not required that the aggrieved persons, in the event of boundary dispute has to approach the authorities for fixing the boundary, they are at liberty to approach the Civil Court of law under Section 9 of the Code of Civil Procedure, which is unambiguous in this regard.

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*competent Civil Court of law under Section 14 of the Act.*

*39. It is contended by the petitioner that the authorities are making certain findings regarding the title, ownership in their order, while rejecting the applications. Such findings made by the authorities either in the patta proceedings or in the proceedings under the Survey and Boundaries Act are restricted and to be understood only for the purpose of arriving a conclusion under the provisions of the Act and the said patta proceedings or the proceedings under the Survey and Boundaries Act would not confer any title or be taken as a conclusive decision, more specifically under Section 35 of the Evidence Act.*

*40. Accordingly, the respondents are directed to consider the representations / applications submitted by the petitioners in the order of seniority and by following the procedures as contemplated under the Governmental orders and in consonance with the provisions of the Survey and Boundaries Act, 1923 and pass appropriate orders on merits and in accordance with law. Wherever the applications are already disposed of and appeals provided under the Act has been filed, then such appeals are to be decided on merits and in consonance with the provisions of the Survey and Boundaries Act.”*



3. In view of the fact that the case of the petitioner is also similar to that of the cases (cited *supra*), the case of the petitioner is also to be considered on the same line.

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

**12.09.2023**

Index:Yes

Neutral Citation:Yes/No

Speaking order

hvk

To

1.The District Collector,  
The Collectorate,  
Salem District, Salem - 636 001.

2.The District Revenue Officer,  
Salem District,  
Fort Main Road, Salem - 636 007.

3.The Revenue Divisional Officer,  
Attur Taluk,  
Salem District, Attur - 636 005.

4.The Thasildar,  
Attur Taluk,  
Salem District, Attur - 636 103.

5.The Commissioner,  
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**S.M.SUBRAMANIAM, J.**

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