



W.P.(MD) No.1721 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.1721 of 2023
and W.M.P.(MD)No.1543 of 2023

T.Duraisamy

... Petitioner

Vs.

- 1.The District Collector,
Dindigul District,
Dindigul.
- 2.The Block Development Officer,
Village Panchayat,
Palani Union,
Dindigul District.
- 3.The Tahsildar,
Palani Taluk,
Dindigul District.
- 4.The Panchayat President,
Amarapoondi Panchayat,



W.P.(MD) No.1721 of 2023

Palani Taluk,
Dindigul District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the 4th respondent in his proceedings in Na.Ka.No.01/2023/Voo, dated 23.01.2023 and quash the same as non application of mind and violation of principles of natural justice and consequently direct the 4th respondent to issue patta in the name of the petitioner based on the document No.544/1964 dated 27.09.1964 in Survey No.305, Amarapoondi Village, Palani Taluk, Dindigul District within the period stipulated by this Hon'ble Court.

For Petitioner : Mr.G.Radhakrishnan

For Respondents : Mr.M.Sarangan,
Addl. Govt. Pleader for R1 & R3

Mr.P.T.Thiraviyam,
Standing Counsel for R4

ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

This Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus, to call for the records of the 4th respondent in his proceedings in



W.P.(MD) No.1721 of 2023

WEB COURT

Na.Ka.No.01/2023/Voo, dated 23.01.2023 and quash the same as non application of mind and violation of principles of natural justice and consequently direct the 4th respondent to issue patta in the name of the petitioner based on the document No.544/1964 dated 27.09.1964 in Survey No.305, Amarapoondi Village, Palani Taluk, Dindigul District, within the period stipulated by this Hon'ble Court.

2. Heard Mr.G.Radhakrishnan, learned counsel for the petitioner, Mr.M.Sarangan, learned Additional Government Pleader, who takes notice for the respondents 1 and 3 and Mr.P.T.Thiraviyam, learned Standing Counsel, who takes notice for the fourth respondent.

3. By consent, this Writ Petition is taken up for final disposal at the admission stage itself.

4. The learned counsel appearing for the petitioner submitted that the property in S.No.305/1 belongs to the petitioner and the respondents are taking action for removal of encroachment in S.No.305/2, which is classified as Kulam.



W.P.(MD) No.1721 of 2023

WEB COPY

He further submitted that at the time of conducting survey, the respondents wrongly measured the property and fixed the boundary in S.No.305/2 and the said boundary comes under the petitioner's property viz., in S.No.305/1. He further submitted that the 4th respondent without issuing any show cause notice, has passed the impugned order and on this ground alone, the impugned order is liable to be set aside. He further submitted that it would suffice, to direct the respondents to survey the property in S.Nos.305/1 and 305/2 with the assistance of the surveyor and fix the boundary.

5. The learned Additional Government Pleader appearing for the respondents 1 and 3 fairly submitted that the impugned notice may be treated as show cause notice and the petitioner may be directed to submit his objections, which will be considered by the authorities concerned and only then, appropriate action will be taken for removal of encroachment, if any, in the place in question.

6. Recording the above submission, the impugned notice dated 23.01.2023 is treated as show cause notice and the petitioner is directed to file his objections



W.P.(MD) No.1721 of 2023

WEB COPY / reply to the same before the 4th respondent, along with all supporting materials, within a period of two [2] weeks from the date of receipt of a copy of this order. After receipt of the same, the 4th respondent shall consider such objection and conduct a survey in S.Nos.305/1 and 305/2 with the assistance of the surveyor and fix the boundary and thereafter, shall pass orders for eviction of encroachment, if any, by due process of law within a period of six [6] weeks thereafter.

7. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

[D.K.K., J.] [R.V., J.]

30.01.2023

NCC : Yes / No
Index : Yes / No
vsm



WEB COPY



W.P.(MD) No.1721 of 2023

D.KRISHNAKUMAR, J.
and
R.VIJAYAKUMAR, J.

vsm

To

- 1.The District Collector,
Dindigul District,
Dindigul.
- 2.The Block Development Officer,
Village Panchayat,
Palani Union,
Dindigul District.
- 3.The Tahsildar,
Palani Taluk,
Dindigul District.
- 4.The Panchayat President,
Amarapoondi Panchayat,
Palani Taluk,
Dindigul District.

W.P.(MD)No.1721 of 2023

30.01.2023