



W.P(MD)No.5562 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD)No.5562 of 2023
and
W.M.P(MD) No.5692 of 2023

Kasinathan

... Petitioner

Vs.

1.The Tahsildar
Tirupathur Taluk Office,
Sivagangai District.

2.The Inspector of Police
S.V.Mangalam Police Station,
Tirupathur Taluk,
Sivagangai District.

3.Gnanasoundari

... Respondents

(Respondent No.3 is impleaded as per order
of this Court dated 11.04.2023 in
W.M.P(MD) No.5692 of 2023)



W.P(MD)No.5562 of 2023

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the first respondent/ Tahsildar, Tirupathur Taluk, Sivagangai District, to conduct the Survey of petitioners property comprised in S.Nos.56/E and 56/3D situated at Alampatti, Mathavarayanpatti, Tirupathur Taluk, by taking the police assistance from the second respondent police on the basis of the petitioner's application dated 09.02.2023.

For Petitioner : Mr.V.Malaiyendran

For Respondents : Mr.D.S.Nedunchezian - for R1 & R2
Government Advocate

Mr.A.Karthick - for R3

ORDER

W.M.P(MD) No.5692 of 2023 had been filed by the writ petitioner seeking to implead the proposed respondent as a third respondent, Gnanasoundari, wife of Ponnalagu.



W.P(MD)No.5562 of 2023

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2. In the affidavit filed in support of the said petition, it had been stated that the writ petition has been filed seeking a Mandamus to conduct survey of property at Survey Nos.56/E and 56/3D at Alampatti, Mathavarayanpatti, Tirupathur Taluk. The third respondent had raised objections and there is also a suit pending between the writ petitioner and the proposed third respondent.

3. In view of the fact that the third respondent is a necessary party, this ***W.M.P.(MD) No.5692 of 2023 is allowed.***

4. The Registry before issuing the order copy may implead Gnanasoundari as a third respondent in the writ petition.

5. Heard the learned counsels on either side in the writ petition also.

6. The writ petition has been filed seeking a Mandamus against the first respondent / Tahsidlar, Tirupathur Taluk, Sivagangai District, to conduct survey of the property in Survey No.56/E and 56/3D



W.P(MD)No.5562 of 2023

at Alampatti, Mathavarayanpatti, Tirupathur Taluk. The petitioner had given an application on 09.02.2023.

7. It is stated that a suit in O.S.No.14 of 2023 is now pending on the file of the District Munsif Court, Tirupathur. The writ petitioner is one of the defendants in the said suit.

8. It is only appropriate that the civil Court gives judgment on the basis of the pleadings and evidence to be adduced. Till such time, surveying the lands will not be of any assistance to the petitioner herein.

9. A direction is given to the Tahsildar, to examine whether the property mentioned in the civil suit is the same property as that mentioned in the writ petition and if it is so, then, pass an order that it would only be appropriate that the parties await the decision in the civil suit and thereafter, proceed to conduct the survey. But once a civil suit is pending, survey cannot and should not be conducted. Necessary orders may be passed by the Tahsildar.



W.P(MD)No.5562 of 2023

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10. Placing that direction on the Tahsildar, the Writ Petition

stands disposed of. No costs.

11.04.2023

Index : Yes/No
Internet : Yes/No
NCC : Yes / No

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Note : Registry is directed to carry out necessary amendment in the cause title

To

1.The Tahsildar
Tirupathur Taluk Office,
Sivagangai District.

2.The Inspector of Police
S.V.Mangalam Police Station,
Tirupathur Taluk,
Sivagangai District.



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W.P(MD)No.5562 of 2023

C.V.KARTHIKEYAN, J.

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W.P(MD)No.5562 of 2023

11.04.2023