



WP.(MD)Nos.8259, 192 & 17759 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.09.2024

CORAM

THE HONOURABLE **MS.JUSTICE P.T.ASHA**

WP.(MD)Nos.8259, 192 & 17759 of 2024
and

WMP.(MD)Nos.213,215, 216, 15240 & 15241 of 2024

WP.(MD)No.8259 of 2024

R.Manikandan

... Petitioner

Vs.

1.The District Collector,
Madurai District, Madurai.

2.The District Revenue Officer,
Madurai District, Madurai.

3.The Revenue Divisional Officer,
Thirumangalam, Madurai District.

4.The Tahsildar,
Thirumangalam,
Madurai District.

5.Pandi

... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Mandamus, to direct the respondents to survey and fix the four boundaries of the petitioner's property in Survey



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No.17 of 2022 (Old Sy.No.64/20, 64/21) Block 6, Ward-A, Thirumangalam Town, Madurai District based on the representation dated 17.02.2024.

For Petitioner : Mr.Niranjan S.Kumar

For R1 to R4 : Mr.B.Saravanan,
Additional Government Pleader.

For R5 : Mr.T.Aswin Rajasimman

WP.(MD)No.192 of 2024

R.Manikandan

... Petitioner

Vs.

1.The District Collector,
Madurai District, Madurai.

2.The District Revenue Officer,
Madurai District, Madurai.

3.The Revenue Divisional Officer,
Thirumangalam, Madurai District.

4.The Tahsildar,
Thirumangalam,
Madurai District.

5.Pandi

... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the third respondent in Nee.Mu.No.5197/2023/A3 dated 06.12.2023 and quash the same and consequently direct the respondents not to disturbing the petitioner's



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peaceful possession and enjoyment of property in Survey No.17/15B2
(Old Sy.No.64/20, 64/21) Block 6, Ward-A, Thirumangalam Town, Madurai
District.

For Petitioner : Mr.Niranjan S.Kumar

For R1 to R4 : Mr.B.Saravanan,
Additional Government Pleader.

For R5 : Mr.T.Aswin Rajasimman

WP.(MD)No.17759 of 2024

K.Pandi

... Petitioner

Vs.

1.The District Collector,
Madurai District, Madurai.

2.The Revenue Divisional Officer,
Thirumangalam, Madurai District.

3.The Tahsildar,
Thirumangalam,
Madurai District.

4.The Town Surveyor,
Office of the Tahsildar,
Thirumangalam,
Madurai District.

5.R.Uthayakumar

6.P.Manikandan

... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of
India, praying to issue Writ of Certiorarified Mandamus, to call for the



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records pertaining to the impugned notice in Athumal/WP.(MD)No. 10949/2024 dated 19.07.2024 and impugned notice in Athumal/WP.(MD)No.8259/2024 dated 19.07.2024 on the file of the fourth respondent and quash the same as illegal and consequently for a direction, forbearing the second to fourth respondents from surveying and fixing four boundaries within the land in an extent of 17 $\frac{3}{4}$ cents in S.No.17/15B2, Block-6, Ward-A, Thirumangalam Town, Madurai District which comprises the petitioner's land to an extent of 6 $\frac{1}{2}$ cents.

For Petitioner : Mr.T.Aswin Rajasimman

For R1 to R4 : Mr.B.Saravanan,
Additional Government Pleader.

For R5 : Mr.C.Ezhilarasu

For R6 : Mr.B.Chakkaravarthi

COMMON ORDER

In writ petition in WP.(MD)No.192 of 2024, the petitioner has sought for issuance of writ of certiorarified mandamus calling for the records of the third respondent's order dated 06.12.2023 in Nee.Mu.No. 5197/2023/A3 and consequently direct the respondents not to disturb the petitioner's peaceful possession and enjoyment of the property comprised in S.No.17/15B2 (Old Sy.No.64/20, 64/21) Block 6, Ward-A, Thirumangalam Town, Madurai District.



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2.It is seen from the records that in the survey number described supra, the petitioner's adjacent land owner one N.Raja had purchased lands to an extent of 23 $\frac{3}{4}$ cents under registered sale deed 25.08.1999 and an extent of four cents was sold by the said N.Raja under Doc.No. 9866/2012. Further, 3.69 cents in the above land was acquired by the Highways Authority. In the affidavit filed in support of the writ petition, the writ petitioner would state that the remaining lands in S.Nos.64/20 and 64/21 was in their continuous possession and enjoyment, without any hindrance by the said N.Raja. Thereafter the affidavit would proceed to state that the said N.Raja had executed a gift deed dated 04.05.2022 to an extent of 10.25 cents, in favour his two sons, Udhayakumar and Jeyasurya. The said Udhayakumar and Jeyasurya thereafter sold 4 cents to the petitioner under a registered sale deed dated 22.11.2023. The petitioner also claims that the revenue records are mutated on 21.11.2023 and 25.11.2023. The narration lacks clarity.

3.They would further submit that the fifth respondent, who is the writ petitioner in W.P.(MD)No.17759 of 2024, had raised objection before the Sub Registrar, Thirumangalam stating that civil suit is pending with reference to the above property and therefore, the document cannot be



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registered. Without considering the legal aspect, the Sub Registrar, Thirumangalam had with held the petitioner's document in P/89/2023. The Village Administrative Officer had issued a report dated 26.05.2022 stating that the lands in S.Nos.64/20 and 64/21 belongs to N.Raja. Further, the District Revenue Officer, Madurai, by his proceedings dated 26.05.2022 had given compensation to N.Raja in respect of the lands in S.No.17/15B1 measuring an extent of 130 Sq.Ft and thereby, confirmed the title. It is also the contention of the petitioner that the civil suit was only for bare injunction and there is no dispute with regard to the title over the property. Thereafter, the District Registrar (South), Madurai had directed the document to be registered, after getting separate patta by sub dividing the property. The petitioner would submit that the said Udhayakumar had made an application to the fourth respondent for issue of separate patta in his name along with necessary documents. The fourth respondent thereafter sub divided the land in S.No.17/15B2 vide order dated 21.11.2023. Based on the separate patta, the sale deed executed by the said Udhayakumar and Jeyasurya was registered.

4.This registration was challenged by the fifth respondent by filing an appeal before the third respondent to cancel the sub division made in



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S.No.17/15B2. Without any notice or proper enquiry, the impugned order has been passed cancelling the sub division Challenging the cancellation, writ petition in W.P.(MD)No.192 of 2024 has been filed.

5.Meanwhile, an interim order of stay was also granted on 08.01.2023. On 17.02.2024, the petitioner had submitted a petition to survey and fix four boundaries of the properties based on his document. However, the same has not been complied with and therefore, the petitioner had filed a writ petition in W.P.(MD)No.8259 of 2024.

6.Meanwhile, the fifth respondent in W.P.(MD)No.192 of 2024 had filed a writ petition in W.P.(MD)No.17759 of 2024 for certiorarified mandamus to quash the survey and sub division notice dated 19.07.2024 issued by the fourth respondent as illegal and for a direction forbearing the respondents 2 to 4 from surveying and fixing four boundaries within the land to an extent of 17 $\frac{3}{4}$ cents in S.No.17/15B2 Block 6, Ward-A, Thirumangalam Town, Madurai District, which includes the petitioner's land to an extent of 6 $\frac{1}{2}$ cents.

7.It is the case of the petitioner in WP.(MD)No.17759 of 2024 that



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he had purchased land to an extent of 6 ½ cents under a registered sale deed dated 15.09.2010 and 26.11.2012. After alienation the property, his vendor had been causing hindrance in the peaceful possession and enjoyment of the said property and therefore, he had filed a civil suit in O.S.No.27 of 2021 for permanent injunction restraining the said N.Raja, his vendor from disturbing his possession. The petitioners in other two writ petitions also claim under the said N.Raja. The petitioner in WP.(MD)No.17759 of 2024 would further state that in order to cause an encumbrance, the said N.Raja had executed a gift deed in favour of his two sons Uthayakumar and Jayasurya. Without notice to the petitioner in WP.(MD)No.17759 of 2024 and without conducting a survey, the said Udhayakumar had unlawfully sub divided the property and granted a patta in favour of the fifth respondent in WP.(MD)No.17759 of 2024 by excluding the name of the petitioner. Against the said order, an appeal was preferred by the said Pandi before the Revenue Divisional Officer on 06.12.2023, the Revenue Divisional Officer had allowed the appeal and directed the cancellation of sub division and ordered restoration of joint patta in the name of the said Pandi. This order is the subject matter of W.P.(MD)No.192 of 2024.



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8.The said Pandi would submit that the issue regarding title is matter, that is now pending before the civil Court in O.S.No.27 of 2021. It is in this background, WP.(MD)No.10949 of 2024 was filed by the said Uthayakumar seeking survey of the land and fixation of four boundaries and this Court, on 30.04.2024, was pleased to pass orders in the above petition with various directions to the Authorities for surveying the property and one of the condition is that in case of joint patta, co-pattathars must give their consent for conducting survey. The fifth respondent in WP.(MD)No.17759 of 2024 has applied for survey, without consent of the petitioner and on the basis of this application, the impugned notice has been forwarded. The petitioner would submit that this entire exercise is to set at not the orders obtained by the petitioner before the Revenue Divisional Officer.

9.Heard the learned counsel on either side and perused the records available in the record.

10.Since the Revenue Divisional Officer has passed the impugned order dated 06.12.2023 cancelling the sub division and restoring the patta in the name of the said N.Raja and the writ petitioner in WP.



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(MD)No.17759 of 2024, without any notice whatsoever, to the petitioner and without holding proper enquiry, the impugned order is set aside and the matter is remitted back to the third respondent to consider afresh the appeal filed by the fifth respondent and the third respondent shall issue notice to all the parties concerned and hear them and pass a speaking order, within a period of six weeks from the date of receipt of a copy of this order.

11.However, no proceedings for surveying, demarcating or granting patta shall be carried out by the Authorities till such time as the civil suit in O.S.No.78 of 2024 is pending on the file of the District Munsif, Madurai. Accordingly, these writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

04.09.2024

Index:Yes/No
Internet:Yes/No
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WEB COPY

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P.T.ASHA,J.

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