



W.P.(MD)No.8579 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 15.10.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.8579 of 2024
and
W.M.P.(MD)Nos.7818 & 7819 of 2024

1.R.Kalidasan

2.A.Rajendran

3.T.Rani

4.T.Ponnusamy

... Petitioners

Vs.

1.The District Collector,
District Collector Office,
Madurai-625 020.

2.The Tahsildar,
Vadipatti Taluk,
Vadipatti,
Madurai District.

3.The Assistant Engineer,
P.W.D-Water Resource Organisation (WRO)
Periyar Vaigai Irrigation Division-I,
T.Andipatti,
Madurai District.



W.P.(MD)No.8579 of 2024

4.The Block Development Officer (Village Panchayats)

Vadipatti Panchayat Union,
Vadipatti,
Madurai District.

5.Siruman,

Panchayat President,
Rishabam Village Panchayat,
Rishabam Village,
Vadipatti Taluk,
Madurai District.

6.The Firka Surveyor,

Neerathan Firka Surveyor / Kattakulam Village,
Vadipatti Taluk Office,
Vadipatti,
Madurai District.

7.The Village Administrative Officer,

Kattakulam Village,
Vadipatti Taluk,
Madurai District.

8.The Divisional Monitoring Committee,

Chairperson / Convenor,
Revenue Divisional Officer,
Madurai Revenue Division,
Madurai-625 020.

9.R.Rajini Prabu

(R9 is impleaded vide order dated
16.04.2024 in W.M.P.(MD)No.8263 of 2024
in W.P.(MD)No.8579 of 2024 by GRSJ & BPJ) ... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, to call for the records related to the Eviction Orders Ka.No. 25/Ko.10-2/Valakkukal/2024/U.Po.1/Tha.Aa.1 dated 01.03.2024 issued by the



W.P.(MD)No.8579 of 2024

3rd respondent to the individual petitioners herein and quash the same.

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For Petitioners :Mr.A.Thirumoorthy
For Respondents :Mr.K.Balasubramani
Special Government Pleader
for R1 to R4
: Mr.K.Mahendran for R9

ORDER

Heard both sides.

2. The petitioners questioned the eviction notice dated 01.03.2024 issued by the third respondent herein. In the impugned notice, the petitioners have only been called upon to remove the encroachment. But the extent of the encroachment has not been clearly stated.

3. The learned Special Government Pleader points out that the impugned communication is only a reminder and that in the earlier notice, the extent of the encroachment had been mentioned.

4. The petitioner's counsel seriously disputed the correctness of the extent claimed by the authorities. We therefore appointed an advocate commissioner. On 29.08.2024, the following order was passed:-

“This writ petition has been filed challenging the order dated 01.03.2024 issued by the third respondent herein.



W.P.(MD)No.8579 of 2024

2. The grievance of the petitioner was that survey was not properly

conducted. On 16.04.2024, we passed the following order:-

“The petitioner challenges the communication dated 01.03.2024 issued by the third respondent informing the petitioner that encroachment as identified by Form – II and Form – III will be removed. The case of the petitioner is that survey was not done properly. In fact, we called upon the petitioner to undertake self-assessment. The learned counsel for the petitioner states that they did undertake such an exercise with the assistance of a retired Head Surveyor and it is seen therefrom that the encroachment committed by the petitioner is rather marginal and negligible. Though in normal circumstances, we will be reluctant to order re-survey, considering the special facts and circumstances of this case, we appoint Ms.P.Krishnaveni (Enrollment No.911/2002), 124, Law Chambers, High Court Buildings, Madurai, Mobile No.99946 09673 as Advocate Commissioner. A sum of Rs.15,000/- (Rupees Fifteen Thousand Only) shall be paid as remuneration. This is apart from the other expenses that may be incurred by the Advocate Commissioner which shall be reimbursed. Survey shall be done on 27.04.2024 from 08.00 am onwards. The parties will not receive any further notice. The survey shall be done under the supervision of an official to be appointed by the Assistant Director of Survey and Land Records. The entire proceedings shall be duly videographed. The learned counsel for the petitioner had been categorically informed that if the misgivings expressed by him as regards the previous survey turn out to be incorrect, exemplary cost will fall.

2.Call this case in the first week of June 2024.”

3. Resurvey was conducted in the presence of the Advocate Commissioner. The Advocate Commissioner filed her report on 04.06.2024. It is seen that there is a drastic difference between the original survey result and the



W.P.(MD)No.8579 of 2024

present survey result. The Revenue Divisional Officer, Madurai Division shall file

status report explaining the difference between the outcome of the two survey exercises.”

Pursuant to the direction, the advocate commissioner undertook an inspection. She also availed the assistance of the taluk surveyor appointed by the Assistant Director of Survey and Land Records. As a result of the second survey, encroachment now found is considerably less. We do not want to go into further factual disputes. Admittedly, the petitioners have committed encroachment. As per the survey results found in the second survey, encroachment shall be duly removed. The entire exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order.

5. The Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

[G.R.S., J.] [B.P., J.]
15.10.2024

NCC : Yes / No
Internet : Yes / No
Index : Yes / No
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W.P.(MD)No.8579 of 2024

G.R.SWAMINATHAN, J

and

B.PUGALENDHI, J.

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