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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22-10-2025

CORAM

**THE HONOURABLE MR JUSTICE S. M. SUBRAMANIAM
AND
THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ**

**WA No. 3160 of 2025
and
CMP No. 25708 of 2025**

1.Bethanna @ Bethanna Iyer

2.Lakshmi

Appellant(s)

Vs

1.Raji

2.The District Collector
Salem District.

3.The Revenue Tashildar
Thalaivasal Taluk,
Salem District.

Respondent(s)



PRAYER

Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 24.02.2025 in W.P. No.5723 of 2025.

For Appellant(s): Mr.A.Sriram

For Respondent(s): Mr.S.N.Subramani For R1
Mr.Vadivelu Deenadeyalan
Additional Government Pleader
For R2 & R3

J U D G M E N T

(Judgment was delivered by S.M.Subramaniam J.)

The present Intra-Court Appeal has been filed against the writ order dated 24.02.2025 in W.P.No.5723 of 2025.

2. Writ appellants are third parties in writ proceedings, but parties in two civil suits instituted between appellants and 1st respondent, i.e., O.S.Nos.6 and 208 of 2002, on the file of the Additional District Munsif Court, Attur. It is not in dispute that suit was partly decreed. Instead of filing an Execution Petition (EP) or preferring an Appeal Suit, 1st respondent herein has chosen to file a writ petition seeking a direction against official respondents to consider his



representation dated 15.10.2024 to survey the subject property and issue a separate patta to 1st respondent's property bearing S.No.83/5 in Vadakumarai Village, Salem District, admeasuring 0.48 cents.

3. Writ Court issued a direction to Tahsildar to act upon the application submitted by 1st respondent, conduct survey in line with the title deed and the decree passed in civil suit, and complete the process within a period of four weeks from the date of receipt of a copy of the writ order. After survey, application submitted by the 1st respondent seeking a separate patta is to be considered within a period of six weeks thereafter.

4. Aggrieved by the said direction issued by the Writ Court, appellants submit that they are claiming right over the subject property. Appellants are plaintiffs in O.S.No.6 of 2022 and defendants in O.S.No.208 of 2002. Therefore, Writ Court ought not to have entertained the writ petition and issued a direction to Tahsildar to conduct a survey and issue patta based on the representation submitted by the 1st respondent. Direction issued by the Writ Court is running counter to the provisions of the Tamil Nadu Survey and



Boundaries Act, 1923.

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5. The learned Additional Government Pleader appearing on behalf of the respondents 2 and 3 would submit that civil disputes exist between the parties. During the pendency of civil dispute, parties are not entitled to get individual patta under the Tamil Nadu Patta Pass Book Act, 1983.

6. The learned counsel for the 1st respondent would oppose by stating that Writ Court has issued direction based on Civil Court decree and therefore, there is no infirmity. No appeal suit has been instituted challenging the decree passed by the Civil Court. Thus, there is no impediment for the 1st respondent to prefer an application either under the Tamil Nadu Survey and Boundaries Act or under the Tamil Nadu Patta Pass Book Act.

7. This Court is of the considered view that scope of Tamil Nadu Survey and Boundaries Act cannot be expanded for the purpose of establishing any right. Mere submission of application seeking survey of a property would not be a ground to issue a direction to conduct survey. Purpose and scope of



survey and boundaries act have been elaborately considered by this Court in

the case of ***T.Gothai vs. The District Collector, Villupuram District***¹, and

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relevant paragraphs are extracted hereunder:

“9. In the present case, attempt has been made to resolve the boundary dispute, which is relateable to property right. Such a power has not been conferred to the Survey Officer. Therefore, the scope of Section 9 cannot be expanded so as to form an opinion that the civil dispute relating to boundaries can be resolved under the provisions of the Act.

10. A reading of Section 5 would indicate that any Officer or Authority to whom the power to survey may be delegated, the said Officer may by notification order a survey of any Government land. Therefore, a notification is mandated under Section 5 for delegation of powers. The second phrase under Section 5 indicates that “of any boundary of such land” and the third phrase is “of the boundary forming the common limit of Government land and land that is not Government land”. A holistic reading

¹ 2025 MHC 2449



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of Section 5 would indicate that it is relatable to survey of Government lands and not intended to resolve boundary dispute between private individuals in respect of patta lands. Therefore, boundaries forming common limit of Government land and the land that is not a Government land is to be construed for the purpose of resolving the inter se dispute, if any exists between the Government land and the private land and certainly not in respect of the private lands.

11. *Chapter II of the Act 1923 is captioned as “the survey of Government lands”. The entire provisions are to be read in the context of survey of Government land and it is not meant to resolve the boundary dispute in respect of individual patta lands. Survey Officers are incompetent to fix the boundary, resolve the boundary dispute and settle civil rights under the provisions of The Act 1923. It must be done through trial nature proceedings by the competent civil Court of law.*

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16. Notedly the Tamil Nadu Survey and Boundaries Act was enacted in the year 1923, which is a pre-independence Act. During the relevant point of time, the survey of lands were not completely done and furthermore the Act speaks about Zamindari, jaghir, mitta or palaiyam lands. Therefore, the said Act cannot be now pressed into service for the purpose of survey of boundaries to settle the boundary dispute in respect of patta lands belonging to individuals. Therefore, application under the Act 1923 for conducting survey of private lands are not maintainable under the Act. The parties have to resolve the boundary dispute only through the competent civil Court of law.

17. Any attempt made by the individuals to resolve the boundary dispute to establish their civil rights under the Act 1923 is impermissible under law. The power of civil Courts cannot be usurped by the



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Survey Officer under Section 9 of the Act for the purpose of settling the boundary dispute. The scope of the Act cannot be expanded for determining civil rights between the private individuals. Therefore, Writ Petitions filed seeking survey of the land under the Act 1923 to resolve the boundary dispute are not maintainable. Aggrieved persons are to be relegated to approach the competent civil Court of law for the purpose of settling the boundary dispute by establishing their civil rights based on documents and evidences available on record.....

18. *Mere direction to consider the application to conduct survey under the said Act is not maintainable, since such a direction would do no service to the cause of Justice, but, the litigants will be back again by filing further litigations. Instead of paving way for multiplicity of proceedings, the parties are to be relegated to approach the civil Court to establish their civil rights. Furthermore, the High Court in a writ proceedings cannot conduct roving enquiry with reference to the grounds raised between the parties regarding title, ownership,*



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boundary dispute, civil rights or otherwise. Thus, the orders passed in Writ Petitions directing the competent Authorities to relegate the parties to the civil Court is the correct position of law.”

8. It is brought to the notice of this Court that in yet another writ petition, learned Single Judge of this Court passed an order on 05.10.2020 in W.P.(MD) No.13465 of 2020. Perusal of the said order would show that certain guidelines were issued for the purpose of conducting survey of lands. However, the learned Single Judge has not considered the scope and applications of provisions under Tamil Nadu Survey and Boundaries Act, 1923, as well as Tamil Nadu Patta Pass Book Act, 1983. Entertainability of an application under Tamil Nadu Survey and Boundaries Act has not been considered by Writ Court in the said order. Thus, guidelines issued shall not have any application for the purpose of issuing a direction to survey boundaries in respect of patta lands or to resolve boundary disputes between private individuals. The said order cannot be a ground to claim relief for survey of boundaries by the private individuals in respect of patta lands.



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9. In view of the ***T.Gothai's*** case cited supra, order in W.P.(MD).No.13465 of 2020 has denuded to lose its status as precedent. It is needless to state that the parties are at liberty to resolve the civil dispute before the Competent Civil Court in the manner known to law.

10. Accordingly, the impugned writ order dated 24.02.2025 in W.P.No.5723 of 2025 is set aside and the Writ Appeal stands allowed. Consequently, the connected Miscellaneous Petition is closed. There shall be no order as to costs.

(S.M.SUBRAMANIAM J.)(MOHAMMED SHAFFIQ J.)

22-10-2025

Index:Yes/No

Speaking/Non-speaking order

Neutral Citation:Yes/No

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WEB COPY

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WEB COPY

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