



W.P.No.29260 of 20_

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.08.2025

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Coram:
THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.29260 of 2025

Raja

...Petitioner

Versus

1.The Deputy Superintendent of Police,
Mettur Sub-Division,
Salem District.

2.The Tahsildar,
Mettur Taluk,
Salem District.

3.The Inspector of Police,
Mecheri Police Station,
Salem District.

4.Rathanavelu

5.Stalin

6.Maadhu

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus to call for the records pertaining to the impugned order passed by the 2nd respondent in Moo.Mu.No.80/2025/D dated 02.06.2025 quash the same and consequently,



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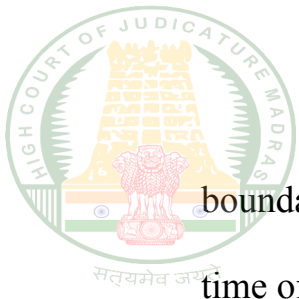
directing the respondent No.2 to survey and point out the field boundaries of the petitioner's property comprised in Old No.322/4C, New Survey No.322/4C2 at Mecheri Village Mettur Taluk, Salem District to an extent of 7,902 Sq.ft by fixing stones with police aid at the time of survey and setting up the fencing to the petitioner's above said property.

For Petitioner	:	Ms.D.Gnanasoundari
For Respondents – 1 & 2:		Mr.A.Selvendran, Special Government Pleader
For Respondent – 3	:	Mr.R.Kishore Kumar, Government Advocate (Crl.Side)

ORDER

By consent of learned counsel on both sides, this writ petition is taken up for final disposal at the admission stage itself. In view of the order that this Court proposes to pass and also, the limited relief that is sought to be granted, notice to respondents 4 to 6 is dispensed with.

2. The relief sought in this writ petition is to quash the Order dated 02.06.2025 bearing Moo.Mu.No.80/2025/D passed by the 2nd respondent and consequently, direct 2nd respondent to survey petitioner's property comprised in Old No.322/4C, New Survey No.322/4C2 measuring an extent of 7,902 Sq.ft situated at Mecheri Village Mettur Taluk, Salem District (hereinafter referred to as “subject property”) and point out the field



boundaries by fixing stones in the subject property with police aid at the time of survey and setting up the fencing to the subject property.

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3. The learned counsel for the petitioner submitted that on 02.01.2025, petitioner submitted a Representation before the respondents 1 & 2, requesting to conduct survey and demarcate the boundaries in the subject property and on the very same day, petitioner submitted a Representation before 3rd respondent, requesting to provide police protection while conducting survey and fixing fence in the subject property. However, respondents have kept the petitioner's Representation pending without taking action. Aggrieved over the same, petitioner filed a writ petition in W.P.No.6557 of 2025 which came to be disposed of by this Court vide Order dated 27.02.2025 with the following observation:

“4. Taking into consideration the facts and circumstances of the case and the materials placed before this Court, there shall be a direction to the petitioner to make an Online Application before the 3rd respondent by providing all the necessary particulars and on receipt of the same, the 2nd respondent shall act upon the Application and take a decision, within a period of four weeks from the date of receipt of the fresh Online Application from the petitioner and if there are any rival claimants, they shall also be put on notice before conducting the survey and if any such survey is conducted, it shall be done in the presence of the rival claimants.

5. This writ petition is disposed of with the above directions. No Costs.”

3.1. It is further submitted by the learned counsel for petitioner that



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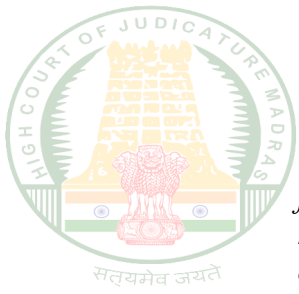
pursuant to the aforesaid order of this Court, 1st respondent vide impugned order dated 02.06.2025, rejected the petitioner's Representation on the ground that Civil Suit in O.S.No.201 of 2023 on the file of District Munsif Court, Mettur and Appeals in S.A.Nos.1170 & 1176 of 2009 on the file of this Court are pending.

3.2. The learned counsel for the petitioner submitted that mere pendency of the suit may not be a bar for conducting survey. While dealing with an identical issue, the Madurai Bench of this Court has passed an Order dated 21.04.2025 in W.P.(MD).No.510 of 2024 by observing as follows:

“3. Learned counsel for the petitioner took me through the impugned order and contends that only two reasons have been assigned for rejecting the petitioner's request for survey. One is the pendency of a suit in O.S.No.13 of 2022. According to the learned counsel for the petitioner, the said suit does not relate to the petitioner's property in S.No.109/1A1F and that the petitioner is not found to be in possession of the subject lands.

4. According to the petitioner, the pendency of the suit is not a bar for survey to be conducted in terms of Section 10 of the Tamil Nadu Survey and Boundaries Act, 1923 and even the factum of physical possession cannot come in the way of respondents refusing to conduct survey. However, learned counsel for the petitioner would fairly submit that survey can be conducted, after putting on notice the third respondent and after hearing the third respondent before proceeding to conduct survey.

5. In view of the fact that the petitioner is also not a party to the suit in O.S.No.13 of 2022, pending before the Additional District Court, Tuticorin, the impugned order in the Writ Petition is set aside and the first respondent shall fix the date for surveying the petitioner's property in



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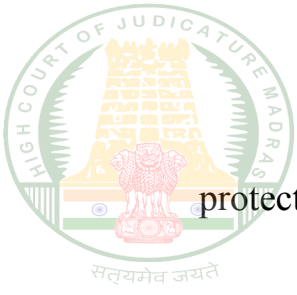


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furtherance of his application dated 06.09.2022, after giving advance notice to the petitioner as well as the third respondent and shall hear the objections of the third respondent, if any, before taking final decision with regard to conducting of survey. If the first respondent finds the objections of the third respondent frivolous, the first respondent shall over-rule the objections and proceed to conduct survey. However, if the first respondent finds the objections of the third respondent touching on the title of the petitioner, then he shall relegate the parties to approach the Civil Court, to work out their remedy. The said exercise shall be completed within a period of twelve (12) weeks from the date of receipt of a copy of this order.”

4. The learned Special Government Pleader appearing for the respondents 1 & 2 submitted that if petitioner submits an Affidavit stating that there is no interim injunction/order restraining the Revenue Officials from conducting survey of the subject property, 2nd respondent would consider petitioner's request and conduct survey of the subject property, within a time frame to be fixed by this Court. He further submitted that in case, police protection is required for surveying the subject property, respondents 1 & 2 may be permitted to request 3rd respondent.

5. When the learned Special Government Pleader for the respondents 1 & 2 made the above submission, Mr.R.Kishore Kumar, learned Government Advocate (Criminal Side) appearing for the 3rd respondent submitted that if any request for police protection is made, adequate police



protection would be granted.

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6. The learned counsel for the petitioner undertook that petitioner would submit such Affidavit before the 2nd respondent, within a period of two weeks from the date of uploading of the web copy of this order.

7. Considering the submissions made by the learned counsel on either side, this Writ Petition is disposed of on the following terms:

(i) The impugned Order dated 02.06.2025 passed by the 2nd respondent is quashed.

(ii) It is open to the petitioner to submit an Affidavit stating that there is no interim injunction order restraining the Revenue Officials from conducting survey in the subject property, before 2nd respondent.

(iii) On submission of such Affidavit by the petitioner, 2nd respondent shall consider the petitioner's request for conducting survey in the subject property in accordance with law, after issuing notice and affording an opportunity of hearing to the petitioner, respondents 4 to 6, adjacent land owners and all other interested parties including rival claimants, if any, within a period of twelve weeks from the date of uploading of the web copy



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of this order without waiting for the receipt of a certified copy of this order.

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(iv) It is open to 2nd respondent to call for any document/conduct enquiry to satisfy itself of the petitioner's entitlement for requesting survey of subject property.

(v) It is made clear that this Court has not expressed any views with regard to the merits of the case and it is open to 2nd respondent to consider the matter on its own merits and in accordance with law. Rights and contentions of the petitioner and all other interested parties are left open.

(vi) It is also open to the respondents 1 & 2 to request 3rd respondent, for providing police protection, if the same is required. If any such request is made, 3rd respondent shall provide adequate police protection for conducting survey in the subject property. No costs.

05.08.2025

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Index : Yes/No

Speaking Order (or) Non-Speaking Order

To

1.The Deputy Superintendent of Police,
Mettur Sub-Division,
Salem District.



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2.The Tahsildar,
Mettur Taluk, Salem District.

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3.The Inspector of Police,
Mecheri Police Station,
Salem District.

MOHAMMED SHAFFIQ, J.

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