



W.P.No.30603 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2025

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.30603 of 2025

Selvaraj,
S/o.Lakshmanan

... Petitioner

Vs.

1.The Tahsildar,
Mettur Taluk,
Salem District.

2.The Inspector of Police,
Nangavalli Police Station,
Salem District.

3.Malarkodi

4.Thambidurai

5.Sudha

6.Priyadharshini

7.Kavipriya

8.Chinnapillai

9.Chinnamuthu

10.Maharajan

11.Meena

1/9



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12.Nagarajan

13.Divya

14.Ponammal

15.Mani

16.Thavamani

17.Ramasami

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the first respondent in Moo.Mu.No.564/2025/D dated 16.04.2025, quash the same and consequently directing the 1st respondent to survey and demarcate the boundaries of the petitioner's property comprised in Survey Nos.17/4, 17/9, 17/10 at Kuttapatti Village, Mettur Taluk, Salem District to an total extent of 1.24 ½ Acres and Survey No.234/8k2, 234/8D at Viruthasampatti Village, Mettur Taluk, Salem District to an total extent of 29 ½ cents with police aid of the 2nd respondent and issue separate patta in favour of the petitioner.

For Petitioner : Mr.C.Deepak Kumar

For Respondents :

For R1 : Mr.P.Sathish

Additional Government Pleader

For R2 : Mr.R.Kishore Kumar

Government Advocate (Criminal 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,



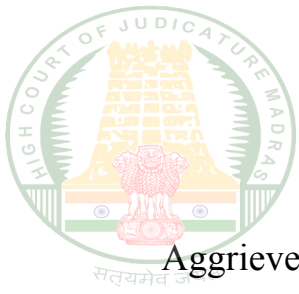
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notice to the respondents 3 to 17 is dispensed with.

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2. The present writ petition is filed, challenging the impugned order dated 16.04.2025 whereby petitioner's request for conduct of survey and issuance of separate patta of the property comprised in Survey Nos.17/4, 17/9, 17/10 at Kuttapatti Village, Mettur Taluk, Salem District, was rejected only on the ground that there is a suit pending in respect of the subject property in O.S.No.131 of 2024 before the District Munsif Court, Mettur and a Writ Petition in W.P.No.13532 of 2025 filed by the 4th Respondent is pending before this Court.

3. It is submitted by learned counsel for the petitioner that petitioner submitted a representation dated 14.12.2024 to the 1st respondent, seeking to conduct survey of the subject property by paying necessary fee. However, 1st respondent did not consider the same, hence petitioner filed a Writ Petition in W.P.No.2914 of 2025 before this Court. This Court vide Order dated 06.02.2025 disposed of the same by directing the petitioner to make an online application before 1st respondent and upon receipt of such online application, 1st respondent shall take steps to conduct survey in the subject property. Thereafter, 1st respondent after conducting enquiry, passed the impugned order.



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Aggrieved, petitioner has filed the present writ petition.

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4. Learned counsel for the petitioner would submit that the suit itself is only in relation to the rights over the pathway. He would also submit that mere pendency of the suit in the absence of any interim injunction therein, may not be a bar for conducting survey over the subject property. It is further submitted that W.P.No.13532 of 2025 filed by 4th respondent is closed by this Court vide Order dated 17.04.2025.

5. Mr.P.Sathish, learned Additional Government Pleader for the 1st respondent would submit that it would be appropriate for petitioner to take out fresh application for carrying out the survey and demarcate the boundaries. However, petitioner may submit an affidavit stating that there is no interim injunction granted by any competent Court, restraining the authorities from conducting survey over the subject property. On receipt of such affidavit, the 1st respondent would proceed to conduct survey over the subject property which was agreed to by the learned counsel for the petitioner.

6. It is further submitted by the learned Additional Government Pleader that in case police protection is required, a request would be made to the 2nd



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respondent. When this was pointed out, the learned Government Advocate, Mr.R.Kishore Kumar appearing for the 2nd respondent would submit that if any such request is made, adequate police protection will be granted.

7. This Court find merits in the submission of the learned counsel for the petitioner and finds that the order impugned herein is contrary to the Circular dated 15.03.2021 in R.C.No.Q5/20403/2020 (sv), wherein in Clause (iv) & (v) of paragraph No.2, it has been clarified that pendency of litigation is not a bar for conducting survey. The relevant portion is extracted hereunder:-

"2. (iv) Pendency of litigation before Courts is not a bar for the authorities to conduct survey or resurvey in the absence of any stay / interim order / interim injunction from proceeding further.

(v) In cases relating to pending civil dispute, the parties are at liberty to approach the appropriate forum for conducting Survey of Resurvey of the property in question by making necessary application and the same shall be considered by the appropriate forum in accordance with law."

8. In the considered view of this Court, mere pendency of the suit is not a bar for the authorities to conduct survey or resurvey if there is no interim order in the pending suit.

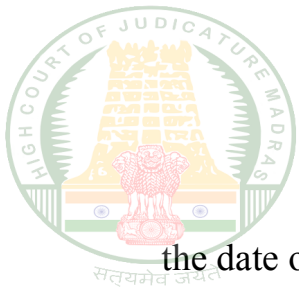


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9. In view of the limited relief that is prayed, this Court is inclined to dispose of this writ petition and accordingly, this writ petition is disposed of with following directions:-

- i) The impugned order dated 14.02.2025 is set aside.
- ii) It is open to the petitioner to submit an application afresh to the 1st respondent by paying necessary fee.
- iii) On receipt of such application / payment, the 1st respondent shall conduct survey and fix the boundaries of the subject property, after issuing notice to the petitioner, respondents 3 to 17 and all other interested parties including rival claimants, if any.
- iv) Though the facts have been set out extensively in the affidavit, this Court does not propose to deal with the same while leaving it open to the 1st respondent to call for any documents to satisfy itself of the petitioner's entitlement for surveying the subject property.
- v) As far as issuance of separate patta, the authority shall independently consider the facts and law set out in the representation and pass appropriate order in accordance with law including but not limited to the provisions of the Tamil Nadu Patta Pass Book Act and Rules.
- vi) The entire process shall be completed within a period of 8 weeks from



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vii) It is open to the 1st respondent to request for police protection before the 2nd respondent. If any such request is made, the 2nd respondent is directed to provide adequate police protection for surveying the subject property.

viii) It is made clear that this Court has not expressed any views with regard to the merits of the matter and it is open to the 1st 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. No costs.

13.08.2025

Neutral Citation : Yes / No

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To

1.The Tahsildar,
Mettur Taluk,
Salem District.

2.The Inspector of Police,
Nangavalli Police Station,
Salem District.



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