



W.P.(MD)No.96 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.03.2025

CORAM:

THE HONOURABLE MR JUSTICE P.B. BALAJI

W.P.(MD)No.96 of 2023
and
W.M.P.(MD)No.107 of 2023

S.V.Umashankar

... Petitioner

Vs.

- 1.The District Collector
Kanyakumari District.
- 2.The Revenue Divisional Officer
Nagercoil,
Kanyakumari District.
3. The Tahsildar
Agastheeswaram Taluk,
Agastheeswaram,
Nagercoil,
Kanyakumari District.
- 4.The Head Surveyor
Agastheeswaram Taluk,
Agastheeswaram,
Nagercoil,
Kanyakumari District.
- 5 The Inspector Of Police
Kottar Police Station, Kottar,
Nagercoil, Kanyakumari District.



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6. Muthukaruppa Pillai

7. P. Chellaiah Pillai

8. Jansirani

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing respondents No.3 to 5 herein from conducting survey and demarcation work in the Petitioner's Temple Property namely Udaiyadi Sudalaimadaswamy Petchiaamaipula Madasamy Temple situated in Survey No.23/16, Kurukku Theru, Kottar, Nagercoil, Kanyakumari District, at the instance of the respondents No.6 to 8 in the light of the petition submitted by the petitioner dated 05.12.2022.

For Petitioner : Mr.B.Prahalad Ravi

For Respondents : Mr.M.Lingadurai
Special Government Pleader for R1-R5

: Mr.L.George Paul Anto for R6- R8

ORDER

I have heard Mr.B.Prahalad Ravi, the learned counsel appearing for the petitioner, Mr.M.Lingadurai, learned Special Government Pleader appearing for the respondents and Mr.L.George Paul Anto, learned counsel appearing for the respondents 6 to 8.



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2.The learned counsel for the petitioner would submit that the writ petition has been filed to forebear the respondents 3 to 5 from conducting any survey and demarcation in respect of the petitioner's temple property comprised in Survey No.23/16, Kuruku Theru, Kottar, Nagercoil, Kanyakumari District, at the instance of the respondents 6 to 8.

3. The learned counsel for the petitioner would further submit that there is a mistake in mentioning the correct survey No. Q3/16 instead of survey No.23/16 has been mentioned. He would further submit that the petitioner has already filed a suit in O.S.No.5 of 2024, before the Principal District Court, Nagercoil and the suit was being hotly contested by the respondents 6 to 8, who are the defendants in the suit. He would further submit that the said defendants were however set *ex-parte* and they have now taken out an application to set aside the *ex-parte* order and the same is pending. He would therefore seek for the interim order granted by this Court at the time of admission, being made absolute.

4. Per contra, the learned Special Government Pleader, Mr.M.Lingadurai, on instructions, would rely on the statement made in



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the counter affidavit of the fifth respondent and contend that there is a dispute with regard to the subject property between the petitioner and respondents 6 to 8 and the 7th respondent has also lodged a police complaint and equally the petitioner has also lodged a police complaint and both appeared on the same day and on enquiry, the parties have agreed to act as per the survey report. There is no survey application made by the private respondents and therefore, there is no question of granting any relief to the writ petitioner.

5. The learned counsel appearing for respondents 6 to 8 would submit that till today, the respondents were under the impression that the petitioner is seeking survey only in respect of Survey No.23/ 16 and not survey No.Q3/16. The learned counsel submit that property comprised in survey No. Q3/16 belongs to the private respondents and the said issue is being defended by them before the competent civil Court. He would also submit that no application has been made for conducting survey as set out by the petitioner in the affidavit in support of the writ petition. The learned counsel for the private respondents would submit that the petitioner has no *locus standi* to even file the present writ petition.



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6. In view of the fact that the respondents, both the private respondents as well as the official respondents, would contend that there has been no request for survey made, there is no necessity to keep the petition pending. The parties are anyway litigating the issue in O.S.No. 5 of 2024.

7. Without going to any merit, considering the fact that there has been no application for survey in the first place, no relief is necessary to be granted in favour of the writ petitioner.

8. This writ petition is dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is also closed.

Index : Yes / No
NCC : Yes / No
LS

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P.B. BALAJI, J.

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