



W.P.(MD)No.3185 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **03.02.2025**

CORAM:

THE HONOURABLE MR JUSTICE P.B. BALAJI

W.P.(MD)No.3185 of 2025

- 1.Alphonse
- 2.Yesuraja
- 3.Balaji

.... Petitioners

/Vs./

- 1.The District Collector,
Dindigul District,
Dindigul.
- 2.The Tahsildar,
Kodaikanal,
Dindigul District.
- 3.The Commissioner,
Kodaikanal Municipality Corporation,
Kodaikanal,
Dindigul District.
- 4.The Town Surveyor,
Kodaikanal Municipal Corporation,
Dindigul.
- 5.Ravi Muthu

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents 2 to 4 to consider petitioner's representation dated 20.01.2025 to survey the petitioner's patta land No.52/18, 53/18, 54/18 in Ward-D, Block No.21 in T.S.No.18 in Kodaikanal Town & Taluk, Dindigul District.

For Petitioner : Mr.P.M.Vishnu Varthanan

For R1,R2 & R2 : Mr.B.Saravanan
Additional Government Pleader
For R3 : Mr.T.S.Mohamed Mohideen

ORDER

The petitioner seeks issuance of writ of mandamus to direct the respondents 2 to 4 to consider the her representation dated 20.01.2025 to survey her patta land in S.No.52/18, 53/18, 54/18 in Ward-D, Block No.21 in T.S.No.18 in Kodaikanal Town & Taluk, Dindigul District.

2. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

3. According to the petitioner, the third respondent is an adjacent owner and there is a civil suit pending between the parties. The



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second respondent has issued notice on the petitioner under the provision of the Tamil Nadu Urban Local Bodies Act, 1998. The said notice was challenged by the writ petitioner in W.P.(MD)No.18637 of 2020 and common order came to be passed by the Division Bench of this Court on 22.08.2023 with a specific direction to conduct proper survey.

4. I have heard the learned counsel appearing on either side and perused the materials placed before this Court.

5. The learned Additional Government Pleader appearing for the respondents 1,2 & 3 would submit that the petitioner may be called upon to produce all the relevant records and thereafter, the officials would be in a position to enquire into the matter and pass orders.

6. The learned counsel for the third respondent would submit that the petitioner has filed another writ petition in W.P.(MD)No.29975 of 2023 and the same is pending. However, the learned counsel for the petitioner clarifies that the said writ petition is not relating to the subject matter which only pertains to S.No.52/18, 53/18, 54/18 in Ward-D, Block



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No.21 in T.S.No.18 in Kodaikanal Town & Taluk, Dindigul District.

7. I have gone through the order of the Division Bench dated 22.08.2023, where, the present writ petitioner filed review application in Rev.Aplw(MD)No.166 of 2023 besides also, a separate writ petition in W.P(MD)Nos.186 and 18637 of 2020. Both the writ petitions and the review came to be disposed of in and by the said common order. The Division Bench of this Court had directed the Tahsildar, Kodaikanal to conduct a survey with the assistance of the Town Planning Officer, Kodaikanal Municipality and identify whether the petitioner herein is an encroacher of the lands belonging to the State Highways or the Local Body. The Division Bench further directed that before conducting any survey, notice shall be issued to the third respondent as well as the writ petitioner and thereafter, the Tahsildar shall draw a report pointing out the boundary and demarcation with measurements clearly indicating whether the petitioner herein, who was the writ petitioner in W.P(MD)No.18637 of 2020 as well as the review petitioners, was a encroacher of the public lands or not.



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8. The Hon'ble Division Bench also directed that if the report reveals encroachment made by the petitioner herein, then the officials were entitled to take action for removal of encroachment under appropriate laws by following the procedure prescribed. The entire exercise was directed to be concluded within a period of four weeks from the date of receipt of the report of the Tahsildar being served on the parties to the earlier common order.

9. It is now the grievance of the petitioner that, pursuant to the order of the Hon'ble Division Bench, there has been no action taken by the respondents as indicated in the common order, dated 22.08.2023.

10. I do not see the prayer in the writ petition enlarging the scope of the common order dated 22.08.2023. In fact, I also find that the petitioner filed yet another writ petition in W.P.(MD)No.29028 of 2024, where there was a challenge laid to the proceedings initiated under Section 128(1) (b) of the Tamil Nadu Urban Local Bodies Act. The said writ petition was disposed of by the Hon'ble Division Bench of this Court, dated 04.12.2024 permitting the petitioner to raise all his



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objections before the Commissioner, Kodaikanal Municipality and thereafter, the proceeding under Section 128(1)(b) was directed to be disposed of in accordance with law.

11. Though the counsel for the respondents has relied on the Town Survey Register, I find that it is only pertaining Survey No.33 and not T.S.No.18 which is according to the petitioner owned by him, which appears to be mutated in the name of the fifth respondent, who is the private respondent. The second and fourth respondent therefore directed to comply with the directions already issued by the Division Bench of this Court, dated 22.08.2023 and shall survey the lands including T.S.No.18 and pass final orders regarding encroachment, if any, having made by the petitioner. On such order being passed, after hearing the petitioner, then it is open to the third respondent to initiate action for removal of encroachment. The petitioner shall submit all relevant documents to the second and fourth respondents within a period of two weeks from the date of receipt of a copy of this order enclosing the copy of this order and thereafter, the second and fourth respondents shall survey and demarcate the lands in question and also taking into account the holding of patta in T.S.No.18 and



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thereafter, decide on the issue of encroachment. The said exercise shall be completed within a period of four weeks thereafter.

12. The writ petition is disposed of accordingly. No costs.

Index : Yes / No
NCC : Yes / No
am

03.02.2025

TO:-

- 1.The District Collector,
Dindigul District,
Dindigul.
- 2.The Tahsildar,
Kodaikanal,
Dindigul District.
- 3.The Commissioner,
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P.B. BALAJI, J.

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Order made in
W.P.(MD)No.3185 of 2025

Dated:
03.02.2025