



W.P.(MD) No.2243 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.06.2025

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THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P.(MD) No.2243 of 2023

Manimuthu

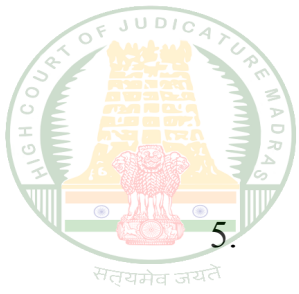
Vs

... Petitioner

1. The District Collector,
Office of the Collectorate Building,
Sivagangai District.
2. The Tahsildar,
Thiruppuvanam Taluk, Sivagangai District.
3. The Inspector of Survey,
Department of Land Survey,
Collectorate Building,
Sivagangai District.
4. Ganesan
5. Rajeshwari

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, forbearing the respondent Nos.1 to 3 to survey the land based on the civil suit pending in O.S.No. 16 of 2021 on the file of District Munsif, Thiruppuvanam, Sivagangai District in respect of the Survey No.111/6C to an extent of 5 cents situated at Thiruppachethy South Village, Thiruppuvanam Taluk, Sivagangai District between the petitioner and the respondent Nos.4 and



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For Petitioner : Mr.D.S.Haroon Rasheed

For Respondents : Mr.A.Baskaran,
Addl. Govt. Pleader for R1 to R3
Mr.D.Senthil for R4 & R5

ORDER

This Writ Petition is filed seeking issuance of Writ of Mandamus forbearing the respondents 1 to 3 to survey of the land situate in S.No. 111/6C with an extent of 5 cents in Thiruppachethy South Village, Thiruppuvanam Taluk, Sivagangai District.

2. Heard the arguments of Mr.D.S.Haroon Rasheed, learned counsel for the petitioner, Mr.A.Baskaran, learned Additional Government Pleader appearing for respondents 1 to 3 and Mr.D.Senthil, learned counsel appearing for respondents 4 and 5.

3. According to the petitioner, the above mentioned property belonged to his father Angusamy Servai. He died leaving behind his five children viz., the petitioner, 4th respondent Ganesan, Mohan,



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Gunasekaran and Jeyaraman as his legal heirs. After demise of petitioner's father, a dispute arose between the fourth respondent and other children of Angusamy Servai. According to the petitioner, the fourth respondent obtained forged patta in his name and filed a civil suit in O.S.No.16 of 2021 on the file of District Munsif, Thiruppuvanam, Sivagangai District against the petitioner and two others. The said suit is still pending. In the meantime, the 5th respondent, wife of 4th respondent, who was also arrayed as plaintiff in the civil suit, moved a Writ Petition before this Court in W.P.(MD)No.29103 of 2022 seeking to survey of the property in respect of three survey numbers including S.No.111/6C, which is the subject matter of this Writ Petition.

4. The above Writ Petition was disposed of with the following directions:

“2. The Writ Petition is disposed of with the following directions:-

(I) The survey authority will issue notice to the writ petitioner as well as the adjacent land owners and also to the interested persons, if any.

(II) Enquiry shall be held. During enquiry, objections raised by the adjacent land owners / interested persons shall be considered.

(III) If according to the jurisdictional authority, the



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objections are without any basis, the same shall be overruled and the objectors shall be informed accordingly. But the survey will be conducted only after a period of six weeks so that the objector can move the concerned Court for injunction. If before the proposed date of survey, the objector is unable to obtain any injunction order, the survey can very well go on. It is open to the parties to serve memo of instructions to the surveyor at the time of conducting the survey. The same will be borne in mind. While it cannot be binding on the surveyor, the same will be taken note of.

(IV) If the jurisdictional authority finds objections to be having substance, then, he shall call upon the applicant to move the jurisdictional civil Court for agitating his rights.

(V) If required, the survey authority is empowered to seek aid of the jurisdictional police and the jurisdictional police are mandated to grant police protection.

(VI) It is made clear that at the end of the survey exercise, survey stones alone can be installed. The exercise of survey and demarcation undertaken pursuant to the direction of this Court can never result in dispossession of any party. No person shall put up fencing at the time of survey by using police aid. The Survey Authority will pass order within a period of six weeks after service of notice on the interested persons.

(VII) A copy of the survey report will be served on the parties also. No costs."

Since the official respondents are attempted to survey the property as per



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the order passed by this Court in the earlier Writ Petition, the petitioner has filed this Writ Petition seeking the above mentioned prayer.

5. The learned counsel appearing for the petitioner would submit that the respondents 4 and 5 already moved the civil Court in O.S.No.16 of 2021 and hence, the request made by the respondents 4 and 5 before the official respondents is not tenable in law.

6. The learned Additional Government Pleader appearing for the official respondents would submit that due to the pendency of the Writ Petition filed by the petitioner, the second respondent has not conducted any enquiry pursuant to the direction issued by this Court in the earlier Writ Petition.

7. It is seen from the typed set of papers, already the respondents 4 and 5 filed a suit in O.S.No.16 of 2021 seeking a decree for injunction against the petitioner and others and the said suit is pending. In the earlier Writ Petition filed by the 5th respondent, the present Writ Petitioner was not made as a party. In fact, the earlier Writ Petition was disposed of with a direction to the official respondents to conduct enquiry by issuing notice to all interested parties. However, no enquiry



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was conducted in view of the pendency of the Writ Petition filed by the petitioner. Even in the earlier order passed by this Court, it is clearly mentioned that if the official respondents found that there was substance in the objection raised by the interested parties, the parties shall be relegated to the civil proceedings. However, it is seen from the earlier Writ Petition, the pendency of the civil suit was not at all brought to the notice of this Court, when the said Writ Petition was disposed of.

8. In view of the pendency of the civil suit between the petitioner and the respondents 4 and 5, this Court feels that it would be appropriate to direct the petitioner and the contesting respondents 4 and 5 to workout their remedy before the civil Court without insisting the survey of the property situate in S.No.111/6C, which was also shown as one of the property in the civil suit. Accordingly, the petitioner and the respondents 4 and 5 are directed to workout their remedy before the civil Court in the pending suit.

9. With these directions, this Writ Petition stands disposed of. There shall be no order as to costs.



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Index: Yes/No
Internet: Yes/No
Neutral Citation: Yes/No

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S.SOUNTHAR, J.

vsm

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