



W.P.(MD) Nos.2570 of 2025 and 10924 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.P.(MD) Nos.2570 of 2025 and 10924 of 2024

and

W.M.P(MD)Nos.1814 and 1815 of 2025 and 9731 of 2024

W.P(MD)No.2570 of 2025

M.Vadamalai

... Petitioner

vs.

- 1.The Tahsildar,
Musiri Taluk,
Trichy District.
- 2.The Head Surveyor,
Musiri Taluk,
Trichy District.
- 3.The Firka Surveyor,
Musiri Firka,
Trichy District.
- 4.The Village Administrative Officer,
Sevanthilingapuram Village,
Musiri Taluk,
Trichy District.
- 5.K.Ramesh



W.P.(MD) Nos.2570 of 2025 and 10924 of 2024

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... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records relating to the impugned notice dated 20.01.2025 of the first respondent quash the same as illegal.

For Petitioner : Mr.A.N.Ramanathan

For Respondents : Mr.S.Kameswaran
Government Advocate for R1 to R4

Mr.A.Joel Paul Antony for R5 & R6

W.P(MD)No.10924 of 2024

K.Ramesh

... Petitioner

vs.

1.The Tahsildar,
Musiri Taluk,
Trichy District.

2.The Head Surveyor,
Musiri Taluk,
Trichy District.

3.M.Vadamalai

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the first respondent in his order dated 24.04.2024 and



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quash the same as illegal, arbitrary and in violation of principles of natural justice and consequently, direct the respondents 1 and 2 to survey the property of the petitioner in new S.No.336/4 and old S.No.142, measuring 750.0 sq.mtrs., situated at Kuditheru, Mangaraipettai, Sevandhalingapuram, Musiri Taluk, Trichy District and to demarcate the four boundaries.

For Petitioner : Mr.A.Joel Paul Antony

For Respondents : Mr.S.Kameswaran
Government Advocate for R1 & R2

Mr.A.N.Ramanathan for R3

COMMON ORDER

These writ petitions are filed by the rival claimants who are neighbours.

2.The case of the petitioner in W.P(MD)No.2570 of 2025 is that based on an order passed in a writ petition, the survey is proposed to be conducted and therefore, the petitioner challenges the said impugned survey notice issued on the ground that subsequently, a contempt petition was filed before this Court in CONT.P(MD)No.773 of 2024 and the request of the petitioner therein was reported to the Court as rejected and recording the same, the contempt petition



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was also dismissed, giving liberty to the petitioner therein, who is the writ petitioner in W.P(MD)No.10924 of 2024 to challenge the rejection order under Section 11 of the Tamil Nadu Survey and Boundaries Act.

3.In view of the above, the survey notice is without taking into account the subsequent events, as it is clearly unsustainable and has to necessarily go. Therefore, W.P(MD)No.2570 of 2025 is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

4.In W.P(MD)No.10924 of 2024, the petitioner challenges the impugned order dated 24.04.2024 on the file of the first respondent. The request for survey has been rejected on the ground of pendency of a civil suit and also in view of the objections made by the neighbour, namely, the writ petitioner in W.P(MD)No.2570 of 2025.

5.The case of the third respondent in this writ petition, who is the petitioner in W.P(MD)No.2570 of 2025, is that the writ petitioner has encroached into a portion of his land and therefore, the suit in O.S.No.99 of 2023 has been filed and



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the same is pending before the District Munsif Court, Musiri. The suit has been filed for the relief of mandatory injunction to remove the fence encroaching into the third respondent's property as well as for permanent injunction. It is not in dispute that the petitioners in both the writ petitions are parties to the suit in O.S.No.99 of 2023. The allegations stated with regard to the encroachment or otherwise cannot be decided in the writ petitions or even by the revenue authorities.

6. Therefore, the parties will have to necessarily workout the remedy only before the pending civil suit in O.S.No.99 of 2023. It shall be open to both the parties to move an appropriate application for appointment of Advocate Commissioner to inspect the property, including the disputed and alleged encroached portion, with the help of the Taluk Surveyor and once such a report of the Commissioner and the Surveyor is filed, the parties shall also get an opportunity to test the same by seeking cross examination of the Commissioner as well as the Surveyor, if necessary. Therefore, the rights of both the parties would be fully protected and there would be assistance for the Court also to adjudicate the disputed questions of fact and decide the dispute regarding encroachment. The



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learned District Munsif, Musiri, shall dispose of the suit in O.S.No.99 of 2023, within a period of six months from the date of receipt of the Commissioner and Surveyor being filed.

7.With the above observations and directions, W.P(MD)No.10924 of 2024 is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

14.03.2025

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NCC: Yes/No

Index : Yes / No

Internet : Yes / No

To

1.The Tahsildar,
Musiri Taluk,
Trichy District.

2.The Head Surveyor,
Musiri Taluk,
Trichy District.

3.The Firka Surveyor,
Musiri Firka,
Trichy District.



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4.The Village Administrative Officer,
Sevanthilingapuram Village,
Musiri Taluk,
Trichy District.

Copy to

The District Munsif Court, Musiri.



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P.B.BALAJI, J.

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