

Madurai District.

: Respondents in W.P.(MD)No.3219/23

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.03.2025

CORAM
THE HON'BLE MR.JUSTICE P.B.BALAJI

W.P.(MD)Nos.3219 & 26216 of 2023
and
W.M.P.(MD)Nos.22568 of 2023 & 17620 & 1752 of 2024

R.Muthukrishnan

: Petitioner in both Writ Petitions

Vs.

1.The Tahsildar,
Taluk Office, Usilampatti,
Madurai District.

2.The Surveyor,
Taluk Office, Usilampatti,
Madurai District.

: Respondents in W.P.(MD)No.3219/23

1.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Usilampatti, Madurai District.

2.The Tahsildar, Taluk Office,
Usilampatti, Madurai District.

3.A.Ramachandran

: Respondents in W.P.(MD)No.26216/23

PRAYER in W.P.(MD)No.3219 of 2023:

Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus, directing the respondents to survey the lands to an extent of 3.96.5 hectares of land in Survey No.282 at Thummakkundu Village, Usilampatti



: Respondents in W.P.(MD)No.3219/23

Taluk, Madurai District on the basis of the charges paid by the petitioner on
31.01.2023.

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PRAYER in W.P.(MD)No.26216 of 2023:

Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorari, calling for the records pertaining to the impugned order passed by the first respondent vide his proceedings in Pa.Mu.No.516/2023/A3 dated 20.07.2023 and quash the same as illegal.

W.P.(MD)No.3219 of 2023:

For Petitioner : Mr.D.Senthil
For Respondents : Mr.M.Lingadurai,
Special Government Pleader

W.P.(MD)No.26216 of 2023:

For Petitioner : Mr.D.Senthil
For Respondents 1&2 : Mr.M.Lingadurai,
Special Government Pleader
For Respondent No.3 : Mr.M.Rajarajan

COMMON ORDER

These Writ Petitions, considering the fact that, it is between same parties and also concerning connected issues, are taken up together, with the consent of the learned Counsel on both sides.

()"2.The Counsel for the petitioner in W.P.(MD)No.26216 of 2023, has sought to set aside the impugned order passed by the first respondent / Revenue Divisional Officer Pa.Mu.No.516/2023/A3 dated 20.07.2023, which is an appeal*



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petition filed by the third respondent, seeking to cancel the patta in the name of one Prithviraj. The third respondent's appeal was listed for enquiry on 18.07.2023 and on receipt of the enquiry notice dated 11.07.2023, the writ petitioner has appeared before the first respondent on the said date namely 18.07.2023 and has also made a written request for copies of the appeal papers to be furnished to the petitioner.

3.It is seen from the affidavit filed in support of the writ petition that on 18.07.2023, the first respondent was not in station and the presence of the petitioner was marked by the subordinate officer of the first respondent and the petitioner was told that he would be informed about the next hearing date. While so, within a span of two days on 20.07.2023, without even furnishing the relevant copies of the documents filed by the third respondent and other necessary papers, the first respondent has hastily passed an order. The primordial attack to the order of the first respondent is that, it is in violation of the principles of natural justice, which is clearly depriving the right of the writ petitioner in meeting the contentions of the third respondent.

4.I find force in the submission of the learned Counsel for the petitioner.

(*)5.The learned Counsel for the third respondent, on other hand, submits that the petitioner has no locus standi, to even file the present writ petition, since the third respondent was only challenging the issuance of patta to one Prithviraj,



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to whom the petitioner has sold the property and therefore, would submit that the petitioner cannot challenge the impugned order passed by the first respondent.

6.I have carefully considered the submission of the learned Counsel on either side.

7.Insofar as W.P.(MD)No.3219 of 2023, the grievance of the petitioner is that he had sought for survey of his lands in S.No.282 at Thummakkundu Village, Usilampatti Taluk, Madurai District and had also made necessary applications. However, survey was not conducted and hence, the petitioner seeks survey to be conducted based on his application dated 31.01.2023.

8.The official respondents have filed a counter, stating that the subject lands are in the possession of the third respondent and there are also civil suits pending and therefore, survey cannot be conducted based on the petitioner's application.

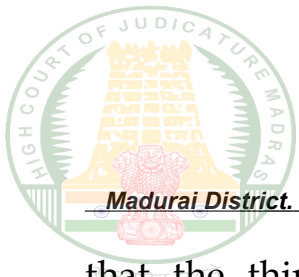
()9.Insofar as the impugned order passed which is under challenge in W.P. (MD)No.26216 of 2023, it is seen that the petitioner was specifically served with the enquiry notice apart from the notice marked to his buyer Pritiviraj and was called upon to attend the enquiry. Therefore, I am unable to countenance the submission of the learned Counsel for the third respondent that the petitioner has no locus standi. Therefore, the said contention is rejected."*



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10. With regard to the impugned order, when the petitioner had made a written request for relevant copies being furnished and on 18.07.2023, when the first respondent was away from the office and the request of the petitioner was received by his subordinate, the first respondent ought not to have proceeded to pass the impugned order, within a span of two days namely 20.07.2023, admittedly, without even hearing the petitioner. The said impugned order is therefore, clearly in violation of principles of natural justice enshrined in our Constitution. On this limited ground, the impugned order is liable to be set aside. The matter is remitted to the first respondent to afford an opportunity to the petitioner as well as the third respondent and after considering the contentions / claims / objections of the said parties, the first respondent shall pass a considered order, on merits and in accordance with law. The said exercise shall be concluded within a period of twelve [12] weeks from the date of receipt of a copy of this order. It is also made clear that the request of the petitioner by representation dated 18.07.2023, seeking copies to be furnished shall also be complied with before the enquiry is conducted.

11. Insofar as W.P.(MD)No.3219 of 2023, in view of the fact that the petitioner's application has been negatived by the respondents, though not prior to the filing of the writ petition but by reference to the counter affidavit filed by the first respondent, I see that in view of pendency of two civil suits and also the finding



: Respondents in W.P.(MD)No.3219/23

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that the third respondent is in possession of the subject survey number, the petitioner's application for survey has been negatived. Therefore, it shall be open to the petitioner to make fresh application, depending upon the outcome of the enquiry proceedings on the file of the first respondent as directed in the other writ petition in W.P.(MD)No.26216 of 2023.

12. Accordingly, W.P.(MD)No.26216 of 2023 stands allowed and W.P. (MD)No.3219 of 2023 stands closed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

06/03/2025

(*)Corrected as per order of this court dated 30/04/2025 Substituting paragraph 2,5,9 in the order date 06.03.2025.

Sd/-

ASSISTANT REGISTRAR (CS-III)

// True Copy //

/ /2025

Sub Assistant Registrar
(CS-I / II / III / IV)

MR



Madurai District.

: Respondents in W.P.(MD)No.3219/23

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To be substituted to the order already despatched on 29/04/2025

1.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Usilampatti,
Madurai District.

2.The Tahsildar,
Taluk Office,
Usilampatti,
Madurai District.

3.The Surveyor,
Taluk Office,
Usilampatti,
Madurai District.

+2 CC to M/s.D.SENTHIL, Advocate (SR-14720[F] and SR-14719 dated
06/03/2025)

+1 CC to M/s.SPL.GP (SR-15179[F] and SR-15188[F] dated 07/03/2025)

W.P.(MD)Nos.3219 & 26216 of 2023

06.03.2025

AS - (25.04.2025) 7P/ 7C

RS - (14.05.2025) 7P/ 7C

AS - (16.05.2025) 7P/ 7C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023.