



W.P.(MD)No.7575 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **20.03.2025**

CORAM:

**THE HONOURABLE MR JUSTICE P.B. BALAJI**

W.P.(MD)No.7575 of 2025

Thirumalaisamy

.... Petitioner

/Vs./

- 1.The Tahsildar  
Odanchathiram Taluk,  
Dindigul District.
- 2.The Taluk Surveyor  
Odanchathiram Taluk,  
Dindigul District.
- 3.The Inspector of Police  
Kallimanthayam Police Station,  
Kallimanthayam, Dindigul District.
- 4.Sivaraman

.... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 and 2 to survey the land belongs to the petitioner in S.No.97, situated at Appipalayam Village, Odanchathiram Taluk, Dindigul District and direct the 3rd respondent to provide adequate police protection at the time of conducting survey by the respondents 1 and 2 by considering the challan



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paid by the petitioner on 06.06.2024 within stipulated time fixed by this Court.

|                |                                                  |
|----------------|--------------------------------------------------|
| For Petitioner | : Mr.N.Madhava Govindhan                         |
| For R1 & R2    | : Mr.M.Lingadurai<br>Special Government Pleader  |
| For R3         | : Mr.S.Prakash<br>Government Advocate (Crl.side) |
| For R4         | : Mr.N.Adithya Vijayalayan                       |

#### ORDER

The petitioner has sought for a survey, based on his application dated 06.06.2024. According to the petitioner, the fourth respondent is preventing any survey to be conducted and further, it is the case of the petitioner that the fourth respondent has no right in the subject property, which was inherited from a person in whose name patta was issued. The petitioner has also given a representation on 06.03.2025 seeking police protection.

2. I have heard the learned counsel appearing for the petitioner, Mr.M.Lingadurai, learned Special Government Pleader appearing for the respondents 1 & 2, S.Prakash, learned Government Advocate (Crl.side) appearing for the third respondent and Mr.N.Adithya Vijayalayan,



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learned counsel appearing for the fourth respondent.

3. The learned counsel appearing for the fourth respondent would bring to my notice that the petitioner, along with his brothers and sisters have filed a suit in O.S.No.73 of 2020 before the District Court, Dindigul and now, it has been transferred to the Additional District Court, Palani and the same is pending. In the said suit, the fourth respondent is arrayed as second defendant. He would further submit that the petitioner cannot get any survey done, outside the scope of the Civil Suit for partition, where, the petitioner has sought for division of the property.

4. However, the learned counsel for the petitioner submits that the partition suit has been filed only in respect of the persons, who are entitled to share. It is stated that the first respondent has suffered a preliminary decree and they are not coming forward to implement or execute the preliminary decree.

5. I also find that the property which is sought to be surveyed by way of representation, which is subject matter of the suit for partition.



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Therefore, it would be proper for the petitioner to make an application for appointment of Advocate Commissioner to survey the subject lands with the help of the Taluk surveyor. On such application being made in the pending suit, the same shall be entertained by the Additional District Judge, Palani. The Advocate Commissioner, with the assistance of the Taluk Surveyor shall survey the property in the presence of the plaintiffs and the defendants, who shall have an opportunity to contest the report of the Commissioner as well as the surveyor, during trial of the suit.

6. Considering that the suit has been pending from 2020, a direction is issued to the Additional District Judge, Palani to dispose of the Advocate Commissioner's application as and when filed, within a period of four weeks. The exercise of survey shall be conducted within a period of four weeks, thereafter. The learned counsel for the petitioner would submit that the trial has already commenced in the said suit and therefore, after the report of the Commissioner and if necessary, permitting the parties to test the report by way of cross examination, thereafter, the Additional District Judge, Palani shall hear the parties on merits and dispose of the suit within a period of six months thereafter.



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7. With the above directions, the writ petition is disposed of. No costs.

Index : Yes / No  
NCC : Yes / No  
am

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**P.B. BALAJI, J.**

am

Order made in  
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Dated:  
20.03.2025