



W.A.(MD)No.489 of 2022

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 14.03.2025**

**CORAM**

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

**AND**

**THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN**

**W.A(MD)No.489 of 2022**

**and**

**C.M.P(MD)Nos.4513 & 8095 of 2022**

R.Gandhi

... Appellant /  
3<sup>rd</sup> Respondent

Vs.

1.R.Kannan

... 1<sup>st</sup> Respondent /  
Petitioner

2.The Tahsildar,  
Theni Taluk,  
Theni District.

3.The Firka Surveyor,  
Theni Taluk,  
Theni District.

... Respondents 2 & 3/  
Respondents 1 & 2

**Prayer:** Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 01.04.2022 passed by the learned single Judge in W.P(MD)No.5922 of 2022 by allowing this Writ Appeal.

For Appellant : Mr.R.Murugan



W.A.(MD)No.489 of 2022

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For Respondents : Mr.G.V.Vairam Santhosh  
Additional Government Pleader  
for R.2 & R.3

No Appearance for R.1

### **JUDGMENT**

(Judgment of the Court was made by G.R.Swaminathan J.)

The third respondent in W.P(MD)No.5922 of 2022 is the appellant herein. One R.Kannan filed W.P(MD)No.5922 of 2022 for conducting survey and fixing boundaries of land in Survey No.415/4B located on Koduvilarpatti Village in Theni Taluk. The writ petition was disposed of on 01.04.2022 with a direction to survey and fix the boundaries of the writ petitioner's property. The learned single Judge specifically stated that notice should be given to Thiru.R.Gandhi / third respondent in the writ petition and rival claimants. Aggrieved by the said order, this Writ Appeal has been filed.

2.The learned counsel appearing for the appellant submits that the appellant (R.Gandhi) was not given notice before conducting survey.



W.A.(MD)No.489 of 2022

**WEB COPY** 3.The learned Additional Government Pleader however disputes the said assertion and states that notice was in fact given.

4.We do not want to go into this aspect of the matter. It has been shown that R.Kannan had filed O.S.No.161 of 2018 before the Sub Court, Theni seeking declaration and permanent injunction in respect of the subject property. The suit was subsequently dismissed as withdrawn on 13.06.2023. When the civil Court was seized of the matter that too in a declaration suit, the question of conducting survey will not arise at all. Thiru.R.Kannan ought not to have filed the writ petition at all. In this view of the matter, the impugned order is set aside.

5.This Writ Appeal is allowed accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

**[G.R.S., J.]      [M.J.R., J.]**  
**14.03.2025**

NCC : Yes / No  
Index : Yes / No  
Internet : Yes/ No  
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W.A.(MD)No.489 of 2022

**G.R.SWAMINATHAN,J.**

**AND**

**M.JOTHIRAMAN, J.**

MGA

To

1.The Tahsildar,  
Theni Taluk,  
Theni District.

2.The Firka Surveyor,  
Theni Taluk,  
Theni District.

W.A(MD)No.489 of 2022

Copy to

The Sub Court, Theni.

14.03.2025