



W.P.(MD)No.19310 of 2022

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **26.02.2025**

CORAM:

THE HONOURABLE MR JUSTICE P.B. BALAJI

W.P.(MD)No.19310 of 2022

and

W.M.P.(MD)No.14088 & 14089 of 2022

Murugan.S

... Petitioner

/Vs./

1. The Tahsildar

Thirumayam Taulk,

Pudukottai District.

2. The Taluk Deputy Surveyor

Thirumayam Taluk,

Pudukottai District.

3. S.Adaikkan

4. K. Chitra

5. S.Pandian Ganesan

6. S.Muthaiah

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the 1st respondent in its impugned proceedings in Pa.Mu.Aa4/592/2022 dated 03.08.2022 and quash the same and consequently direct



W.P.(MD)No.19310 of 2022

the 1st and 2nd respondents to measure survey and fix the boundary line of the land in Survey no.301/1B and 298 at Ponnappatty, Mirattunilai, Thirumayam Taluk, Pudukottai District.

For Petitioner : Mr.C.Ezhilarasu

For Respondents : Mrs.K.Malathi
Additional Government Pleader for R1&2

: No appearance for 3&4

ORDER

The petitioner challenges the impugned order passed by the first respondent / Tahsildar in proceedings Pa.Mu.Aa4/592/2022 dated 03.08.2022.

2. I have heard Mr.C.Ezhilarasu, learned counsel for the petitioner and Mrs.K.Malathi, learned Additional Government Pleader for the official respondents 1 and 2. I have also gone through the impugned order passed by the first respondent and the other documents placed before me, by way of typed set of papers.



W.P.(MD)No.19310 of 2022

WEB COPY

3. The case of the petitioner is that he is the son of one Subban and grandson of one late Adaikan. The petitioner's father died on 08.01.2020 and the petitioner's father possessed ancestral property in Survey No. 301/1B and 298, situated at Ponnappatty village, Mirattunilai, Thirumayam Taluk, Pudukottai District. The petitioner has also produced patta standing in the name of his grandfather, Adaikan, issued by the Tahsildar. Thirumayam. In respect of survey No.301/1B and 298, it is the further case of the petitioner that the lands have been in possession and enjoyment of the petitioner's family for several decades and even after the demise of grandfather Adaikan, the Revenue records also stand in the name of the petitioner's grandfather Adaikan.

4. While so, the petitioner sent a representation seeking survey of the petitioner's lands and fix boundaries with the help of the second respondent Taluk Deputy Surveyor. However, the survey was not conducted and the petitioner was constrained to move this Court in W.P. (MD)No.2048 of 2021 seeking a direction to the respondents to consider the petitioner's representation dated 07.01.2021, for survey and fixing



W.P.(MD)No.19310 of 2022

WEB COPY

boundary lines of the petitioner's property. The said writ petition was disposed of on 28.06.2021 with a direction to the respondents / survey authorities to conduct survey and complete the same within a period of six (6) weeks from the date of receipt of copy of the order, after putting on notice any interested parties. Alleging disobedience of the order dated 28.06.2021, he has also filed a contempt petition in Cont.P.(MD)No.560 of 2022 before this Court. On 12.08.2022, the first respondent herein produced the proceedings dated 03.08.2022 in the contempt proceedings stating that the claim of the petitioner for survey had been rejected. Thereafter, the said impugned order has been challenged by way of the present petition.

5. The petitioner challenged the impugned order is multipronged. namely, one there has been no proper enquiry conducted before the impugned order came to be passed and thereby, there has been a deprivation of fair play at the instance of the respondents. Secondly, the impugned order has been passed without application of mind and ignoring vital documents that have been submitted by the petitioner.



W.P.(MD)No.19310 of 2022

WEB COPY

6. The learned counsel for the petitioner would invite my attention to death certificate of his father Subban as well as legal heir certificate of his father. It is clear from these documents that the petitioner is the grandson of Adaikan and son of Subban. Therefore, the reason cited by the respondents ignoring these documents, namely, the death certificate and legal heir certificate issued by the competent authorities that the petitioner has not established his relationship to the original owner, Adaikan, in whose name, the revenue records stand, is clearly unsustainable and liable to be set aside.

7. The second reason cited by the first respondent is that survey No. 298 measuring 3.88.50 Hectares has been subdivided under the Natham scheme and more than 300 persons have been assigned pattas. Therefore, the said survey No.298 cannot be surveyed because it does not belong to the petitioner. There is no merit in this contention. However, insofar as survey No.301/1B, there can be no impediment for the first respondent to have proceeded to survey, based on the petitioner's application, when the petitioner has satisfied the entitlement to subject lands, being the grandson of late Adaikan, in whose name admittedly



W.P.(MD)No.19310 of 2022

WEB COPY

patta stands. Therefore, the impugned order is set aside partly and the first respondent shall proceed to conduct a survey of the petitioner's land in survey No.301/1B situated at Ponnappatty, Mirattunilai, Thirumayam Taluk, Pudukottai District, within a period of eight weeks from the date of receipt of copy of this order. Insofar as survey No.298 is concerned, liberty is granted to the petitioner to work out his rights in the manner known to law and after establishment of his rights in the said survey number, the petitioner shall be entitled to make an application for survey. The revenue authorities shall take the assistance of the police officials in the event of their apprehending in breach of peace at the time of survey, and the concerned police officials shall provide adequate police protection to the survey authorities, to ensure that there is no breach of peace.

8. With the above direction, this Writ Petition is partly allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes / No
NCC : Yes / No
LS

26.02.2025



W.P.(MD)No.19310 of 2022

WEB COPY

Note: Issue order copy on 28.02.2025

TO:-

1. The Tahsildar
Thirumayam Taulk,
Pudukottai District.

2. The Taluk Deputy Surveyor
Thirumayam Taluk,
Pudukottai District.



WEB COPY



W.P.(MD)No.19310 of 2022

P.B. BALAJI, J.

LS

Order made in
W.P.(MD)No.19310 of 2022

Dated:
26.02.2025