



W.P.(MD)No.18014 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **20.02.2025**

CORAM:

THE HONOURABLE MR JUSTICE P.B. BALAJI

W.P.(MD)No.18014 of 2023

Marithai @ Maheshwari

... Petitioner

/Vs./

1.The District Collector,
Thoothukudi District,
Thoothukudi.

2. The Thasildar,
Srivaikundam Taluk,
Thoothukudi District.

3. The Taluk Surveyor,
Office of the Thasildar,
Srivaikundam Taluk,
Thoothukudi District.

4. N.Kombiah

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings in Na.Ka.No.B8/FLA71/2023 of the second respondent dated 13.06.2023 and to quash the same and direct the second and third respondents to survey and demarcate the lands of the petitioner, to an extent of about 0.25 Ares comprised in Survey No.106/2, 1.13Ares



W.P.(MD)No.18014 of 2023

WEB COPY

comprised in Survey no.105/1, 0.02 Acres comprised in Survey No. 105/3C and 0.05 Ares comprised in S.No.110/5B, 87 cents comprised in Survey No.103/2, 99 cents (0.40.00 Hectares) comprised in Survey no. 142, Veler Adichanallur Village, Srivaikundam Taluk, Thoothukudi District as per the title documents and revenue documents of the petitioner, with necessary police aid at the time of laying survey stones.

For Petitioner	: G.Aravinthan
For Respondent Nos.1 to 3	: Mr.M.Lingadurai Special Government Pleader
For Respondent No.4	: Mr.P.M.Vishnuvarthanan

ORDER

The petitioner challenges the impugned order passed by the second respondent on 13.06.2023, rejecting the request for survey and demarcating the petitioner's land in S.Nos.106/2, 105/1, 105/2A, 105/3C, 110/5B, 103/2 and 142 situated in Velur Adichanallur Village, Srivaikundam Taluk, Thoothukudi District.

2. The case of the petitioner is that the survey is sought for in respect of the petitioner's land which are totally unconnected to the Civil Suit, which has been referred by the second respondent in the impugned order and therefore there can be no impediment for survey would be conducted.



W.P.(MD)No.18014 of 2023

WEB COPY

3. The learned Counsel appearing for the fourth respondent would submit that in respect of S.No.142, a suit for partition has been filed and this petitioner is the Defendant in the suit in O.S.No.116 of 2022 and therefore suppressing the pendency of the said suit, the petitioner wants to survey her properties.

4. The learned Special Government Pleader would submit that the application was rightly rejected in view of the pending civil litigation. On hearing the counsel and I also on going through the records, including the impugned order, I find that the subject matter of dispute in O.S.No.48 of 2018, which has been put against the petitioner pertinent by the impugned order does not pertain to the survey numbers in respect of which the petitioner seeks survey. The fourth respondent in this writ petition is the seventh Defendant in O.S.No.48 of 2018 pending before the Principal District Judge, Thoothukudi. In so far as O.S.No.116 of 2022, which has been filed by Ponnudurai, Nallakannu, Kombiah and the fourth respondent herein as against the writ petitioner Marithai @ Maheswari, they are seeking Specific Performance of an agreement of sale. The said suit is pending.



W.P.(MD)No.18014 of 2023

WEB COPY

5. Considering that the dispute with regard to the factum of physical possession of lands in S.No.142 which is also subject matter of suit for specific performance in O.S.No.116 of 2022, excluding this survey number, survey can proceed in respect of the remaining survey numbers, based on the petitioner's application.

6. In view of the above, the impugned order in this writ petition dated 13.06.2023 is hereby set aside. It is made clear that the second respondent shall conduct survey after putting the petitioner as well as all other interested parties on advance notice before the proposed survey and if necessary, the second respondent shall also take assistance of the jurisdictional police station in the event of the second respondent apprehending the breach of peace. The third respondent shall assist the second respondent at the time of survey and pass final orders in respect of survey numbers 106/2, 105/2, 105/2A, 105/3C, 110/5B, 142 and 103/2 alone. The said exercise shall be completed within a period of twelve weeks from the date of receipt of copy of this order.



W.P.(MD)No.18014 of 2023

WEB COPY 7. With the above said observations, this writ petition is allowed.

No costs.

Index : Yes / No

NCC : Yes / No

gvn

20.02.2025

TO:-

1.The District Collector,
Thoothukudi District,
Thoothukudi.

2. The Thasildar,
Srivaikundam Taluk,
Thoothukudi District.

3. The Taluk Surveyor,
Office of the Thasdilar,
Srivaikundam Taluk,
Thoothukudi District.



WEB COPY



W.P.(MD)No.18014 of 2023

P.B. BALAJI, J.

gvn

Order made in
W.P.(MD)No.18014 of 2023

Dated:
20.02.2025