

W.P.(MD) Nos.20835 and 21298 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
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DATED : 05.08.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.(MD) Nos.20835 and 21298 of 2025

and

W.M.P(MD)Nos.16461 and 16462 of 2025

W.P.(MD) No.20835 of 2025

M.Arjunan

... Petitioner

Vs.

1.The District Collector,
District Collector Office,
Madurai District.

2.The Tahsildar,
Thirumangalam Taluk,
Madurai District.

3.The Head Surveyor,
Thirumangalam Taluk,
Madurai District.

4.The Sub Inspector of Police,
Thirumangalam Police Station,
Madurai District.

5.D.Sendukodi

... Respondents



W.P.(MD) Nos.20835 and 21298 of 2025

Prayer :- Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, directing the respondents 1 to 3 to conduct the survey as per Tamilnadu Survey and Boundaries Act, 1923 and to fix boundaries in respect of entire land comprised in Survey No.138/3B, situated at K.Puliyangulam Village, Thirumangalam Taluk, Madurai District and direct the fourth respondent to give adequate police protection while demarcation, within a time stipulated by this Court.

For Petitioner	:	Ms.B.Bhuvaneshvari for M/s.Ganesan Legist Law Firm
For R1 to R3	:	Mrs.S.Jeya Priya Government Advocate
For R4	:	Mr.M.Vaikkam Karunanithi Government Advocate (crl.side)
For R5	:	Mr.J.Jeyakumaran

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D.Sendukodi

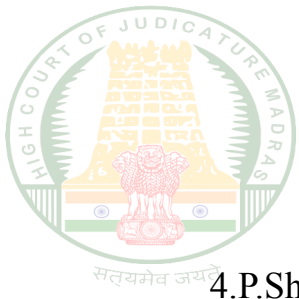
Vs.

... Petitioner

1.The Tahsildar,
Thirumangalam Taluk,
Madurai District.

2.The Firka Surveyor,
Thirumangalam Taluk,
Madurai District.

3.M.Arjunan



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4.P.Shanthi

5.P.Rajan

6.P.Mayakannan

7.G.Sivaraja

... Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned notice issued by the first respondent in his notice dated 11.07.2025 and set aside the same as illegal and consequently, directing the first respondent not to take any further steps to change patta in respect of the petitioners land in S.No.138/3 (Now sub divided as S.No.138/3A1B, 138/3A2, 138/3B and 138/8B) pending suit in O.S.No.86 of 2007, on the file of the Additional District Munsif Court, Tirumangalam and in O.S.No.390/2019 on the file of the VI Additional District Judge, Madurai and in O.S.No.137 of 2023, on the file of the V Additional District Judge, Madurai.

For Petitioner : Mr.J.Jeyakumaran

For R1 and R2 : Mrs.S.Jeya Priya
Government Advocate

For R3 : Ms.B.Bhuvaneshvari
for M/s.Ganesan Legist Law Firm
Government Advocate (crl.side)



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ORDER

This writ petition in W.P(MD)No.20835 of 2025 has been filed seeking a direction to the official respondents to survey the property of the petitioner situated in Survey No.138/3B, at K.Puliyangulam Village, Thirumangalam Taluk, Madurai District.

2.The writ petition in WP(MD)No.21292 of 2025 has been filed by the fifth respondent in WP(MD)No.20835 of 2025 challenging the survey notice issued by the first respondent to survey the subject property as per the application filed by the petitioner in WP(MD) No.20835 of 2025.

3.Since the issues involved in both the writ petitions are interconnected, both the writ petitions are taken up for hearing together.

4.Heard the learned counsel appearing for the petitioners in both the writ petitions and the learned counsel appearing for the private respondents and the learned Government Advocate appearing for the official respondents.



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5. According to the petitioner in WP(MD)No.20835 of 2025, he purchased 21 cents of land in the subject Survey No.138/3B under a sale deed dated 07.09.1998. The patta for the subject property stands in the name of the petitioner and his wife, Rani, in Patta No.4822. He submitted an application on 20.06.2025, seeking survey of the property purchased by him and the same has not been considered. Hence, WP(MD)No.20835 of 2025 has been filed seeking survey of the property.

6. The survey notice issued by the official respondents has been challenged by the fifth respondent herein on the ground that a civil suit is pending between the parties in O.S.No.86 of 2007, on the file of the Additional District Munsif Court, Tirumangalam.

7. The learned counsel for the petitioner in WP(MD)No.20835 of 2025 vehemently contended that the subject property, with an extent of 21 cents, in Survey No.138/3B, was purchased by the petitioner and his wife under a sale deed dated 07.09.1998. The revenue patta also stands in the name petitioner and his wife and therefore, there cannot be any impediment for the official respondents to survey the property.

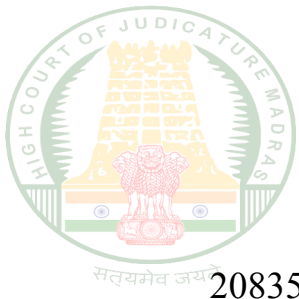


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8.The learned counsel for the fifth respondent in WP(MD)No. 20835 of 2025 would submit that the fifth respondent had already instituted a civil suit for declaration of title in respect of the subject property in O.S.No.86 of 2007, on the file of the Additional District Munsif Court, Tirumangalam. During pendency of the said suit, the official respondents are not entitled to survey the property. The learned counsel also brought to the notice of this Court an earlier order passed by this Court in WP(MD)No.11874 of 2023, wherein this Court, citing the pendency of the declaration suit, quashed the similar survey notice issued by the official respondents to survey the subject property at the instance of the fifth respondent herein. Therefore, according to the learned counsel, during pendency of the civil suit, the official respondents are not entitled to survey the subject property, even as per the order passed by this Court in the earlier writ petition filed by the fifth respondent in WP(MD) No.11874 of 2023.

9.A perusal of the order passed by this Court in WP(MD)No.11874 of 2023 would indicate that a similar survey notice issued by the official respondents was challenged by the fifth respondent in WP(MD)No.



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20835 of 2025 and the said writ petition was allowed, citing the pendency of the civil suit. This Court had also directed the Civil Court to dispose of the suit in O.S.No.86 of 2007 within a period of six months from the date of receipt of a copy of this order. However, the suit in O.S.No.86 of 2007 has not been disposed of and the same was dismissed for default on 17.06.2025. Therefore, as on today, the civil suit filed by the fifth respondent is not pending. However, he is said to have filed an application in I.A.No.8 of 2025, seeking restoration of the suit. Further, a perusal of the order passed in the earlier writ petition would indicate that even at the time of disposal of the earlier writ petition, the suit in O.S.No.86 of 2007 was not pending and the same was dismissed for default. At that point of time, the pendency of the application seeking to restore the suit was taken into consideration and the writ petition filed by the fifth respondent was allowed.

10.From the typed set papers and the pleadings of the parties, it is clear that I.A.No.6 of 2024 was allowed and the suit was restored to file. However, the suit was again dismissed for default. Now, the fifth respondent in W.P(MD) No.20835 of 2025 filed yet another application



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in I.A.No.8 of 2025 to restore the suit. Therefore, it is clear that the fifth respondent in W.P(MD) No.20835 of 2025 is in habit of allowing the suit to get dismissed for default. In spite of direction given by this Court in the earlier writ petition filed by the fifth respondent, she has not co-operated for disposal of the suit within a time stipulated by this Court. The fifth respondent allowed the suit to be dismissed for default and filed another petition to restore the suit.

11.In such circumstances, this Court feels that the official respondents may be permitted to survey the property in the absence of restraint order by Civil Court. Any survey by the official respondents will not result in the dispossession of the person in possession of the subject property. It is made clear that mere survey of the property by the official respondents will not affect the rights of the respective parties over the subject property and the rights of the parties shall be decided only by the civil Court and the survey by the official respondents will not affect their right or possession. if any, over the subject property.

12.With these clarifications, this Court is inclined to direct the



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official respondents to consider the application submitted by the petitioner in WP(MD)No.20835 of 2025 seeking survey of the property and complete the process of survey within a period of six weeks from the date of receipt of a copy of this order.

13.It is also brought to the notice of this Court that the fifth respondent in WP(MD) No.20835 of 2025 submitted an application on 11.03.2022 seeking survey of the subject property. If any such application filed by the fifth respondent is pending before the official respondents, it is open to them to consider the application of the fifth respondent also and survey the property as required by him.

14.With the above direction, both Writ Petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

05.08.2025

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
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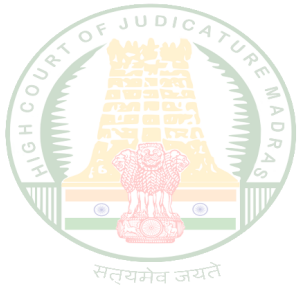


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