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W.P.(MD) No.22896 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.P.(MD) No.22896 of 2024

and

W.M.P(MD)Nos.19428 and 25448 of 2024

K.M.Habeeb Rahman

... Petitioner

vs.

- 1.The District Collector,
Collectorate, Dindigul.
- 2.The Revenue Divisional Officer,
Palani, Dindigul District.
- 3.The Tahsildar,
Palani, Dindigul District.
- 4.The Executive Officer,
Town Panchayat, Balasamuthiram,
Palani Taluk, Dindigul District.
- 5.The Village Administrative Officer,
Balasamuthiram,
Palani, Dindigul District.



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6.Karthick

... Respondents

[R6 is impleaded vide order dated 13.03.2025
in W.M.P(MD)No.26199 of 2024]

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the respondents 3 and 5 to measure the disputed land in Old S.No.53/1A correlating to New S.No.788, S.No.802/1 and S.No.802/2 in respect of 13410 sq.ft.s based on the old and new revenue records and fix the boundaries and issue patta in Balasamuthiram Village, Palani Taluk, Dindigul District within a time that may be stipulated by this Court.

For Petitioner : Mr.N.Mohan

For Respondents : Mr.S.Kamesaran
Government Advocate for R1 to R5

Mr.R.Paranjothi
for M/s.KBS Law Office for R6

ORDER

Heard the learned counsel on either side.



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2.The grievance of the petitioner is that he has purchased the lands in old S.No.53/1A as early as in 1982 and 1983 under two registered sale deeds for valid sale consideration. According to the petitioner, the petitioner is running a rice mill in the said property and has been in continuous possession and enjoyment of the subject property. It is the grievance of the petitioner that the Tahsildar and the Executive Officer of the Town Panchayat started clearing the bushes inside the petitioner's property without any notice to the petitioner. The new S.Nos.802/1 and 802/2 are said to be pathways and the petitioner has encroached into the pathway and therefore, necessary steps are being taken to remove the encroachment. The petitioner approached this Court in W.P(MD)No.3087 fo 2024 seeking a direction to the respondents to measure the disputed lands and fix the boundaries within the time stipulated. This Court, by order dated 12.02.2024, disposed of the said writ petition, holding that the encroachment will not be permissible and the respondents were directed to initiate action to evict the petitioner from the Government land by following due process of law. The only contention of the petitioner in the present writ petition is that he does not know as to the correlation of S.Nos.802/1 and 802/2 with S.No.53/1A, Balasamuthiram



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Village, Palani Taluk, Dindigul District. If at all the survey is conducted in the presence of the petitioner, correlating old S.No.53/1A, then the encroachment, if any, will become clear and the petitioner also undertakes that if he is found to be an encroacher, he would have no objection for the authorities clearing the encroachment even if it means dispossession of the petitioner from the possession of the petitioner.

3.The learned Government Advocate appearing for the official respondents would submit that the new S.Nos.802/1 and 802/2 are belonging to the Government and in fact, in a portion of the property, a daily market is also being run.

4.The learned counsel appearing for the newly impleaded sixth respondent would also submit that the petitioner has no right in the subject property and he is an encroacher. Already, this Court had directed by order dated 12.02.2024 to initiate action against the petitioner by following due process of law. The petitioner had approached this Court even at that length of time, contending that



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he is not an encroacher and if the survey is conducted, then the true picture would come to light.

5. Therefore, in the light of the earlier directions of this Court and the fact that there has been no survey conducted in the presence of the petitioner, the interest of justice would be subserved if the third respondent conducts a survey of the lands in S.Nos.802/1 and 802/2, after correlating the same with old S.No.53/1A, which has been purchased by the petitioner and fixes the boundaries of the petitioner's property as per the sale deed. If it is found from the survey that the petitioner is an encroacher, then the authorities would have no other option but to initiate proceedings to evict the petitioner as already directed by the Hon'ble Division Bench of this Court dated 12.02.2024. In the event of the survey revealing that the petitioner is entitled to retain portion of the property which he has purchased, not being the Government lands as contended by the authorities, then the petitioner may not be dispossessed from such a portion alone. It is made clear that once the survey is conducted in the presence of the petitioner, the petitioner shall co-operate with the authorities for removing the encroachments, if



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any. The said exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

6.The learned counsel for the petitioner submits that the petitioner will co-operate with the survey authorities and would not create any law and order situation. The said statement on behalf of the petitioner made by the learned counsel for the petitioner is recorded.

7.With the above observations and directions, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

13.03.2025

sjj

NCC: Yes/No

Index : Yes / No

Internet : Yes / No

To

1.The District Collector,
Collectorate, Dindigul.

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P.B.BALAJI, J.

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