



W.P.(MD)No.25315 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **04.03.2025**

CORAM:

THE HONOURABLE MR JUSTICE P.B. BALAJI

W.P.(MD)No.25315 of 2022

Balakrishnan

... Petitioner

/Vs./

1.The Tahsildar,
Paramakudi Taluk Office,
Paramakudi Taluk,
Ramanathapuram District.

2.The Surveyor,
Paramakudi Taluk,
Paramakudi, Ramanathapuram District.

3.K.Ramanathan
(R3 is impleaded vide Court Order
dated 24.02.2023)

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the second respondent to survey the petitioner's land in Survey No.125/6A1 to an extent of 13 1/2 cents situated at Kandukondan Manikkam Village, Pandikanmai Group, Kalaiyur Post, Paramakudi Taluk, Ramanathapuram District and earmarked the boundaries of the properties, based on the petitioner's representation dated 23.05.2022.



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For Petitioner : Mr.K.Yasar Arafath
For R1 & R2 : Mrs.K.Malathi
Additional Government Pleader
For R3 : Mr.H.Thayumanasamy

ORDER

The petitioner seeks issuance of a Writ of Mandamus to direct the second respondent to survey the petitioner's land comprised in S.No. 125/6A1 measuring 13.5 cents at Kandukondan Manikkam Village, Pandikanmai Group, Kalaiyur Post, Paramakudi Taluk, Ramanathapuram dsitriect. The petitioner has given a representation seeking survey on 23.05.2022.

2. I have heard the learned counsel appearing for the petitioner, Mrs.Malathi, learned Additional Government Pleader appearing for the respondents 1 & 2 and the learned counsel appearing for the third respondent.

3. The third respondent's case is that, the petitioner has been successively filing suits, one after another and he lost in all the litigation. In one of the suit in O.S.No.118 of 2008, a Commissioner was appointed



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and the property in Survey Nos. 123,126,125, 123/7 and 123/ 8 were already surveyed with the help of the Taluk Surveyor in the presence of the Advocate Commissioner and he has also filed a report along with plan giving measurements of the various survey numbers. The said report has also been marked as exhibits C1 and C2. Thereafter, the civil suit has also been dismissed against the petitioner. In respect of the said decree, a second appeal in S.A.No.323 of 2016 is pending. I find that the subject matter which was in dispute in the said suit was only survey 123/5 measuring 0.34 hectares standing in the name of the father of the plaintiff. No doubt, an Advocate Commissioner was appointed in the said suit. The Commissioner has been assigned the task of inspecting and surveying the property. The Advocate Commissioner's report only discloses the existence of lands in Survey number 123/6 and there is no mention of the extent or other measurements of the said survey number, leave alone sub-division 125/6A1 in respect of which alone, the petitioner now seeks survey. Admittedly, the petitioner claims under a registered sale deed in favour of his grandmother Sellathammal and also joint patta No.1404 mutated in her name and in the name of the father of the petitioner. Thereafter there is also a purchase of an extent of 13.5



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cents under registered sale deed vide document No.2867 of 1960 and therefore, when the survey is sought for by the Petitioner claiming right under registered documents, the third respondent is unable to show as to how the third respondent is interested in the subject Survey number 125/6A1 measuring 13.5 cents. Therefore, citing the earlier litigation which had nothing to do with the subject survey No.125/6A1, the second respondent cannot object to the survey sought for by the petitioner.

5. In view of the above, I do not see no impediment for the survey being conducted based on the petitioner's application in Survey No. 125/6A1, the first respondent shall conduct a survey based on the petitioner's application dated 23.05.2022 and the follow up representation dated 21.10.2022 in the presence of the third respondent, within a period of eight weeks from the date of receipt of a copy of this order.

Index : Yes / No
NCC : Yes / No
am

04.03.2025



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To

- 1.The Tahsildar,
Paramakudi Taluk Office,
Paramakudi Taluk,
Ramanathapuram District.
- 2.The Surveyor,
Paramakudi Taluk,
Paramakudi,
Ramanathapuram District.



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P.B. BALAJI, J.

am

Order made in
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Dated:
04.03.2025