



W.M.P.(MD)No.13336 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 02.02.2026

PRESENT

THE HONOURABLE MRS.JUSTICE N.MALA

WMP(MD). No.13336 of 2025
in WP(MD). No.28544 of 2024

Parthibarajan

... Petitioner/3rd Party

Vs

1.Hemalatha

..1st Respondent/Petitioner

2.Tahsildar,
Madurai East Taluk,Madurai.

3.Head Surveyor,
Madurai East Taluk,Madurai.

...Respondents 2 & 3/Respondents

PRAYER :- This petition is filed under Article 226 of Constitution of India to recall the order made in WP(MD)No.28544 of 2024 dated 29.11.2024.

For Petitioner : Mr.S.M.Arun Kumaar
For R1 : Mr.Mahaboob Fazil
For R2 & R3 : Mr.Thambidurai

Government Advocate

ORDER

The above petition has been filed to recall the order made in WP(MD)No.28544 of 2024 dated 29.11.2024.



W.M.P.(MD)No.13336 of 2025

WEB COPY

2. The first respondent herein/petitioner in the writ petition purchased the property in R.S.No.2/2C at Plot No.4, Karrupilaiyendhal Village, East Taluk, Madurai District, vide sale deed dated 01.08.2008. The first respondent submitted an application on 05.08.2024 for survey and for fixing the boundaries of the subject land on the ground that the adjacent owner was attempting to encroach upon her land. Thereafter, the first respondent sent a representation on 30.09.2024. Since no action was taken on the first respondent's representation, she filed WP(MD)No.28544 of 2024 for a writ of mandamus directing the third respondent herein to conduct survey and earmark her land within the time frame stipulated by this Court.

3. This Court, vide order dated 29.11.2024, disposed of the said Writ Petition by directing the survey authority to consider the first respondent's application for survey and fix the boundary following the directions issued therein. In the said order, this Court made it abundantly clear that it was open to any party to move the Court by way of review or recall of the order, if there is any suppression of material facts by the first respondent herein/the petitioner therein.



W.M.P.(MD)No.13336 of 2025

WEB COPY

4. The present miscellaneous petition is filed to recall the order by invoking the aforesaid liberty granted by this Court, on the ground that the first respondent suppressed the fact that a civil suit in O.S.No.23 of 2024 is pending on the file of the learned District Musif, Melur, wherein the first respondent is arrayed as the eighth defendant and that she had also filed a vakalat through her Advocate on 22.03.2024, prior to the order passed by this Court in the abovesaid writ petition. The petitioner/3rd party further stated that despite knowledge of the aforesaid suit, suppressing the said fact, the first respondent obtained order from this Court and therefore the present petition is filed for recall of the order passed in WP(MD)No.28544 of 2024 on 29.11.2024.

5. Heard the learned counsel appearing for the petitioner, the learned counsel appearing for the first respondent and the learned counsel appearing for the respondents 2 and 3 and perused the materials placed on record.

6. On 24.09.2025, when the matter was taken up, the learned counsel for the first respondent sought time to file a counter. Thereafter, when the



W.M.P.(MD)No.13336 of 2025

matter was taken up for hearing on 16.10.2025, the learned counsel for the petitioner submitted that taking advantage of the order passed by this Court on 29.11.2024, the first respondent, instead of filing counter, was attempting to pressurize the authorities to conduct survey and so prayed for an order of *status quo*. On the basis of the submission of the learned counsel for the petitioner, an order of *status quo* was granted on 16.10.2025. Though the matter was directed to be posted on 17.11.2025, the matter was taken up only on 21.01.2026. On that day, the matter was further adjourned to today.

7. It is seen that though sufficient time has been granted by this Court to the first respondent in this petition to file a counter, for reasons unknown, she has failed to file a counter denying the allegation of suppression of facts. The suppression of the factum of the pendency of the civil suit by the first respondent presumably was for obtaining favourable orders, the same cannot be countenanced.

8. A copy of the plaint in O.S.No.23 of 2024, and a copy of the report notifying the status of the case before the trial court are filed in the



W.M.P.(MD)No.13336 of 2025

typed set of papers, which show that the first respondent was served with notice in the suit as early as on 05.03.2024, and on the same day, she appeared in the suit and undertook to file vakalat through a counsel by name Mr.M.U.Shameem John. In all fairness, it was incumbent on the first respondent to disclose in her writ affidavit the pendency of the suit in O.S.No.23 of 2024, more so, when she chose not to implead the petitioner herein as a party in the writ proceedings. Since the first respondent obtained the order by suppressing the pendency of the suit, this Court is inclined to recall the order passed by this Court in WP(MD)No.28544 of 2024 dated 29.11.2024.

9. In the result, WMP(MD)No.13336 of 2025 in WP(MD)No.28544 of 2024 is ordered. Consequence thereof, the order dated 29.11.2024 passed in WP(MD)No.28544 of 2024 is recalled and the Writ Petition in WP(MD) No.28544 of 2024 is dismissed.

02.02.2026

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W.M.P.(MD)No.13336 of 2025

To :

1.Tahsildar,
Madurai East Taluk,
Madurai.

2.Head Surveyor,
Madurai East Taluk,
Madurai.



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W.M.P.(MD)No.13336 of 2025

N.MALA, J.

CM

ORDER in
WMP(MD). No.13336 of 2025
in WP(MD). No.28544 of 2024

Dated : 02/02/2026