

WP(MD). No.10603 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 28/07/2026

CORAM

THE HONOURABLE MRS. JUSTICE S.SRIMATHY

WP(MD). No.10603 of 2026 and
WMP(MD).No. 8275 of 2026

D.Vimala Rose

... Petitioner

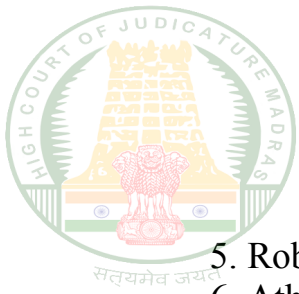
Vs

1. The District Collector,
O/o. District Collector Office,
7a, National Highway, Psp Nagar,
Korampallam,
Tuticorin..

2. The District Revenue Officer,,
O/o. District Collector Office,
7a, National Highway, Psp Nagar,
Korampallam,
Tuticorin..

3. The Revenue Divisional Officer,
O/o.Revenue Divisional Office,
Bench Road,
Tuticorin..

4. The Revenue Tahsildar,,
O/o. Revenue Taluk Office,
Santhankulam,
Tuticorin..



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5. Robinson,,
6. Athisiya Sampath,,
7. Abhilash

... Respondents

PRAYER :-

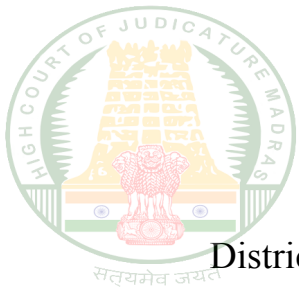
Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of CERTIORARIFIED MANDAMUS calling for the records pertaining to the impugned orders by the 4th respondent vide proceeding reference No. Na.Ka.Aa6/5880/2025 dated 17.12.2025 and quash the same and consequential direct the 4th respondents herein to subdivision and issue separate patta to an extent of 10 cents in S.No. 248/1A situated at Sasthavinallur, Santhankulam Taluk, Tuticorin District.

For Petitioner : Mr.R. Vignesh,
Advocate.
For Respondents 1 to 4 : Mr.K.Saravanan,
Counsel for State
For respondent No.5 : Mr. T. A. Ebanazar

ORDER

This Writ Petition has been filed seeking to call for the records pertaining to the impugned proceedings of the 4th respondent in Na.Ka.Aa6/5880/2025 dated 17.12.2025, to quash the same, and consequently direct the 4th respondent to effect subdivision and issue a separate patta in respect of an extent of 10 cents in Survey No.248/1A situated at Sasthavinallur Village, Sathankulam Taluk, Thoothukudi

2/13



District.

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2. By the impugned order, the respondents rejected the petitioner's request for issuance of patta on the ground that appeal is pending between the parties and that the petitioner is not in possession of the property. Accordingly, the request for subdivision and issuance of separate patta was declined.

3. The brief facts of the case are that the land comprised in Survey No.248 originally belonged to respondents 5 to 7. The petitioner purchased an extent of 10 cents out of the said survey field under a registered sale deed. Consequent upon such purchase, the said extent has been subdivided and assigned Survey No.248/1A.

4. The dispute before this Court is not with regard to the petitioner's title over the said 10 cents but with regard to the access pathway. The petitioner claims a right of pathway measuring 20 feet in width to reach his property. According to the petitioner, the sale deed

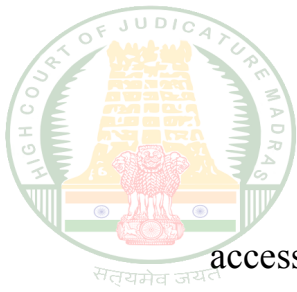


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specifically provides for such pathway and consideration was also paid towards the same. However, the respondents contend that there was never any consensus regarding the grant of a 20-foot pathway in the manner now claimed by the petitioner and that the pathway shown by him was never intended to be conveyed.

5. Owing to the said dispute, the petitioner instituted O.S.No.20 of 2020 on the file of the District Munsif Court, Sathankulam, Thoothukudi District. In the plaint, it has been stated that Survey No.248 belongs to the respondents and that the petitioner had purchased only an extent of 10 cents therein. Under the second schedule of the suit property, the petitioner has claimed an easementary right of pathway. Based on the said claim, the petitioner now seeks not only an individual patta for the 10 cents in Survey No.248/1A but also recognition of his right over the pathway by issuing patta.

6. The dispute, however, is as to whether the pathway should be located in Survey No.247/2A or Survey No.248/1B. The petitioner seeks



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access through Survey No.248/1B, whereas the respondents contend that no such pathway was ever intended to be granted through Survey No. 248/1B. According to them, the easementary right provided under the sale deed is only through Survey No.247/2A, from where the petitioner can reach his property.

7. The 5th respondent has filed a counter affidavit stating that he is ready and willing to provide access to the petitioner's property through the pathway referred to above. Recording the aforesaid submission, paragraph 14 of the counter affidavit and the accompanying sketch are extracted hereunder:

AFFIDAVIT OF THE 5th RESPONDENT

I. Robinson, s/o Duralpalam Hadar, aged 8 years, residing Sathankulam, Thoothukudi District, now temporarily come Gum to Door No. 10/297, Polayarpuram Main Road, Sestavine Madural and do hereby solemnly affirm and sincerity state follows:

1. I am the 5th respondent in writ petition and as such



am well acquainted with the facts of this case.

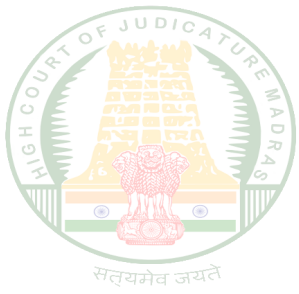
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2. I humbly submit that the true facts are stated herein belows I sold the property to the extent of 10 Cents only out of 5 Acres excepting 3 Acres in Western side and in the North West side of the remaining 2 Acres in Survey Number 248/1A, Sasthavinallur Village, Sathankulam Taluk to the writ petitioner in Doc. No. 102/2014 on 27.1.2014. In the sale deed, I mentioned that the south boundary to the sold land as 20 ft pathway In Survey Number 248/1A and 247/2. Based on the sale deed, joint patta was also issued to the writ petitioner in Survey No. 248/1A.

3. I humbly submit that after the purchase and after obtaining patta, the writ petitioner started to claim pathway through Survey No. 247/2 and through 248/18 and 248/14 with an ulterior motive. Since I refused his self-claimed pathway, he filed a suit in OS No. 20/2020 on the file of the Learned Principal District Munisiff, Sathankulam showing the purchased property as 1^a schedule and self-claimed pathway as 2nd schedule, prayed for the relief of declaration declaring the easement right over the 2nd schedule property and for permanent injunction restraining making Interference. I have annexed the sketch explaining the pathway she is entitled and pathway she is self-claiming.

4. I humbly submit that in the plaint in OS No. 202/2020, the writ petitioner tactfully not included the specific Survey No. 248/18 in the 2nd schedule, but she has stated in the plaint clearly with the said number.

5. I humbly submit that since the 2nd schedule property mentioned therein did not contain any new survey number and contained only survey number mentioned in the sale deed, the Learned Trial Court decreed the suit as prayed for by the writ petitioner by the decree dated 26.8.2022.



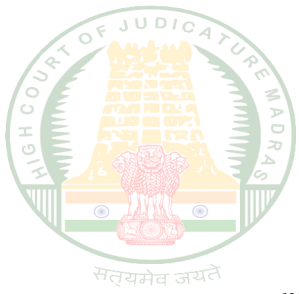
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6. I humbly submit that based on the decree; the writ petitioner tried to make pathway in his self-claimed area by damaging the fencing. On the wrong legal advice, I filed a suit in OS No. 70/2023 on the file of the Learned Principal District Munsif, Sathankulam against the writ petitioner for the relief of permanent injunction restraining the writ petitioner from interfering the peaceful possession in the property in Survey No. 248/1A as a 1 schedule and 247/2 as 2nd schedule. Said suit was dismissed with cost on the ground of res judicata mainly and also for suppression, by the decree on 7.3.2024. Again, on the wrong legal advice, I filed appeal in AS No. 21/2025 on the file of the Learned Sub Court, Tiruchendur, which is pending.

7. I humbly submit that the writ petitioner filed writ petition in WP (MD). No. 16651/2025 with the prayer for subdivision and separate patta in Survey No. 248/1A based on his application without adding me as a party. This Hon'ble Court directed the Tashildar to consider his request after hearing the joint patta holders and to pass speaking order within three months, by the order dated 11.9.2025.

8. I humbly submit that since the self-claimed pathway was refused by me; since in the decree in OS No. 20/2020 does not contain the Survey No. 248/1B, and since the original pathway was refused by the writ petitioner, he has not gone into his original purchased property, said property was not fenced and demarcated yet.

9. I humbly submit that I have no objection in fencing and demarcating his purchased property by going through the admitted pathway and also for sub division and separate patta. But in order to claim self-claimed pathway through my property, the writ petitioner had not fenced and demarcated his property wantonly.



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10. I humbly submit that the wordings made masconceived It is only mentioned in the sale deed that 20 feet feet pathway. But in the 2nd paragraph, it is stated as road Intentionally. Also, he states that the pathway through 248/1A, 247/2 and 248/18, which is intently falsely stated He states that by human err, said number 248/15 was omitted, which is intently falsely mentioned. The Survey No. 248/18 is exclusively belongs to me and no pathway in that property as falsely alleged. He never used such pathway through 248/18 and I had not permitted him to use said property as a pathway.

11. I humbly submit that it is false representation stating 248/18 was settled in my son's name which was using by the writ petitioner as a pathway and hence he filed OS No. 20/2020. On the face of the plaint, the writ petitioner had not added the Survey No. 248/18 in the 2nd schedule of property which was decreed. Now, the writ petitioner tries to state that Survey No. 248/18 was also decreed, which is wrong and misrepresentation.

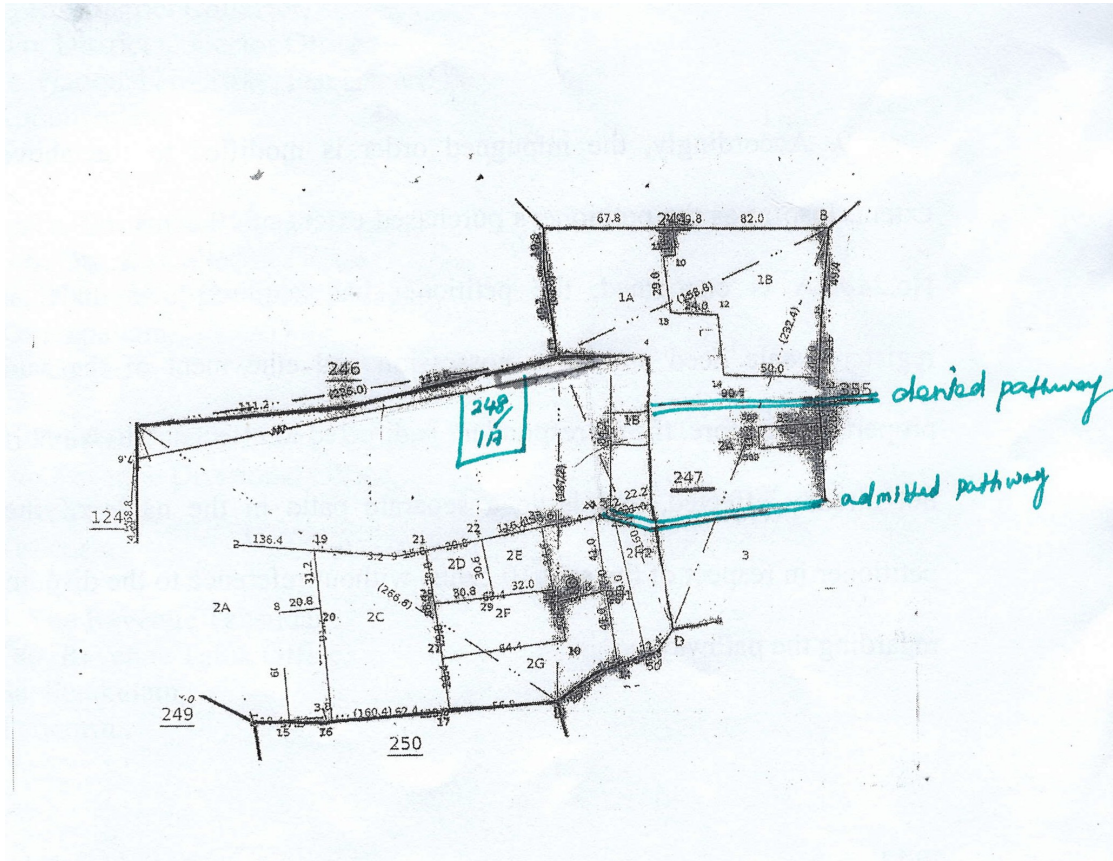
12. I humbly submit that as observed by this Hon'ble Court in the order In WP (MD). No. 16651/2025 in Para 4 as "neither suit appears prima facie to relate to the 10 cents purchased by the writ petitioner under sale deed dated 27.1.2014. All the litigation by the writ petitioner is only for attaining his self-claimed pathway only. Otherwise, no litigation is necessary to subdivide and for separate patta through the admitted pathway. In the name of safe guarding the property he is entitled, the writ petitioner is indirectly working out for the self-claimed pathway, which could not be permitted. The sketch produced by the writ petitioner in which his purchased property Is wantonly wrongly mentioned.

13. I humbly submit that as against both the decrees in both the suits, I have filed appeal and the same are pending. Even now, I have no objection to fence, demarcate, subdivide

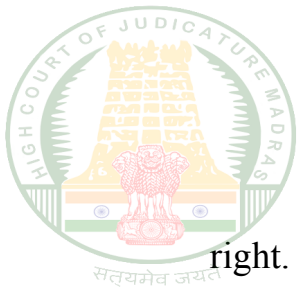


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and separate patta for his property purchased through the admitted pathway Irrespective of pending appeals. After admitting pathway as mentioned in the sale deed and entering into the sale deed and subsequently claiming another pathway through my property is illegal and liable to be rejected. In respect of the Impugned order rejecting. subdivision and separate patta by the Tashildar on the ground of no fencing and demarcation, which is perfectly correct and the writ petition is liable to be dismissed as devoid of merits.



8. In view of the above stand taken by the 5th respondent, the petitioner shall be entitled to use the said pathway as an easementary

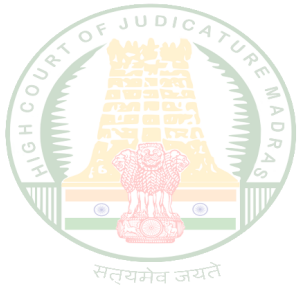


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right. However, the petitioner is not entitled to claim any independent right over the pathway or seek issuance of patta in respect thereof. The petitioner is, however, entitled to a separate patta for the extent of 10 cents in Survey No.248/1A purchased from the 5th respondent under the registered sale deed. Any patta, if issued in the petitioner's name in respect of the pathway, shall stand cancelled by the Revenue Authorities.

9. Accordingly, the impugned order is modified to the above extent. Insofar as the petitioner's purchased extent of 10 cents in Survey No.248/1A is concerned, the petitioner has acquired title under a registered sale deed and is in possession and enjoyment of the said property. Therefore, the 4th respondent is directed to effect subdivision, if not already effected, and issue a separate patta in the name of the petitioner in respect of the said 10 cents, without reference to the dispute regarding the pathway.

10. Accordingly, this Writ Petition is partly allowed. No costs. Consequently, the connected Miscellaneous Petition is closed.



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Index : Yes / No

Internet : Yes

NCC : Yes / No

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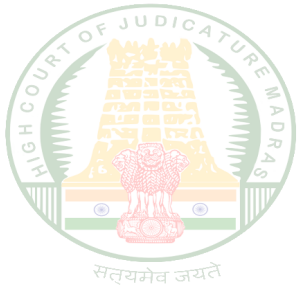
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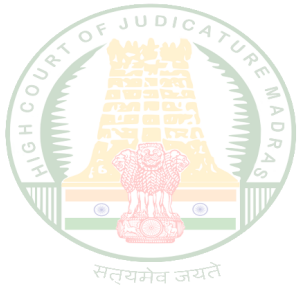
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