

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **20.07.2022**

CORAM

**THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P.(MD)No.2325 of 2012**

C.S.I. Trust Association,  
represented by the Bishop,  
Kanyakumari C.S.I. Diocese,  
Dennis Street,  
Nagercoil,  
Kanyakumari District.

... Petitioner

Vs.

The Commissioner and Director of Survey  
and Settlement,  
Government of Tamil Nadu,  
Chennai – 600 005.

... Respondent

**PRAYER :** Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to Na.Ka.A1/18017/07 dated 29.09.2011, quash the same and direct the respondent to issue Patta in favour of the petitioner in respect of Re-Survey No.318/31, (0-10-0 acres) of Painkulam Village, Vilavancode Taluk, Kanyakumari District.

For Petitioner : Mr.K.Sreekumaran Nair

For Respondent : Mr.R.Baskaran  
Additional Advocate General assisted  
by M/s.N.Muthuvijaya,  
Special Government Pleader

**ORDER**

The present writ petition has been filed challenging the order passed by the first respondent herein, under which, the request of the petitioner for grant of patta was rejected.

2. According to the learned Counsel for the petitioner, the Survey No.2051 which is correlated to R.S.No.318/31, originally belonged to London Mission Society. The said London Mission Society has leased out the property to the then Trivandrum Samasthanam for constructing a School and to administer the same. Thereafter, by way of an agreement between London Mission Society and the writ petitioner herein, the said property was transferred in the name of the present writ petitioner. Thereafter, after 01.11.1956, Kanyakumari got merged with the State of Tamil Nadu. Hence, according to the learned Counsel for the

petitioner, the Trust Association was receiving the rent from the Government of Tamil Nadu till 28.02.1991.

3. Now the learned Counsel for the petitioner further contended that the School run by the Government has been closed and the Government is in possession of the said property by way of Anganvadi centre. Hence, the petitioner has sought for patta for the said property before the first respondent herein. The first respondent herein by way of impugned order has rejected the request of the petitioner on the ground that the petitioner has not produced any document to establish his title over the disputed property. Hence, the present writ petition has been filed.

4. Per contra, the learned Additional Advocate General appearing for the respondent contended that there is no proof to show that the property belongs to the said London Mission Society and it was transferred in favour of the petitioner/Trust. According to the learned Additional Advocate General, the present survey number in dispute does

not find a place in the lease agreement which is said to have been entered into between the London Mission Society and the Trivandrum Samasthanam. Hence, the contention of the petitioner that the London Mission Society has transferred the disputed survey number in favour of the petitioner/Trust is not legally sustainable. He further contended that there is a serious title dispute with regard to the disputed survey number. The learned Counsel for the petitioner would submit that the Government is in possession of the disputed survey number and since the Government is disputing the title of the writ petitioner/Trust, he seeks liberty to approach the competent Civil Court to get redressal of his grievances.

5. In view of the above said submissions made on either side, this Court is inclined to pass the following orders:

(i) The order impugned in the writ petition passed by the first respondent herein is sustained.

(ii) The petitioner/Trust is at liberty to approach the competent Civil Court for declaration of title and for recovery of possession from the Government.

(iii) The Civil Court is directed to dispose of the suit without being influenced by any of the observations made in the impugned order or by this Court in the writ petition.

(iv) In case, if the petitioner succeeds before the Civil Court, the Revenue authorities shall take a call on grant of patta to the writ petitioner, based upon the result in the Civil suit.

6. With the above said observations, this Writ Petition stands disposed of. No costs.

**20.07.2022**

Index : Yes / No  
Internet : Yes / No  
jbr

To

The Commissioner and Director of Survey  
and Settlement,  
Government of Tamil Nadu,  
Chennai – 600 005.

*W.P.(MD)No.2325 of 2012*

**R.VIJAYAKUMAR ,J.**

jbr

Order made in  
W.P.(MD)No.2325 of 2012

**20.07.2022**