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W.P.(MD) Nos.25002 of 2022 & 15361 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.07.2023

CORAM:

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR
and
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

**W.P.(MD) Nos.25002 of 2022 & 15361 of 2023
and
W.M.P.(MD) No.12953 of 2023**

W.P.(MD) No.25002 of 2022:

V.Asath

... Petitioner

-VS-

- 1.The District Collector
Madurai, Madurai District
- 2.The Revenue Divisional Officer
Melur Revenue Division
Madurai District
- 3.The Tahsildar
Melur Taluk
Madurai District
- 4.The Block Development Officer
Kottampatti Panchayat Union
Melur Taluk, Madurai District



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5.The Panchayat President
Karungalakudi Panchayat
Melur Taluk, Madurai District

6.Sheik Mohamed

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus directing the respondents 1 to 5 to take appropriate action to cancel the patta issued in favour of the sixth respondent in respect of S.F.Nos.702/1, 702/3 and 702/21, Karungalakudi Village, Melur Taluk, Madurai District. (Amended *vide* order dated 24.07.2023, passed in W.M.P. (MD) No.12745 of 2023.

For Petitioner : Mr.K.Baalasundharam

For Respondents : Mr.J.Ashok
Additional Government Pleader for R1 to R5
Mr.H.Arumugam for R6

W.P.(MD) No.15361 of 2023:

Sheik Mohammed

... Petitioner

-vs-

1.The Tahsildar
Melur Taluk
Madurai District



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2.The Block Development Officer
Kottampatti Panchayat Union
Melur Taluk, Madurai District

3.The President
Karungalakudi Panchayat
Melur Taluk, Madurai District

4.The Sub-Inspector of Police
Kottampatti Police Station
Madurai

5.V.Asath

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus forbearing the respondents not to lay any road by encroaching the petitioner's patta land in Natham S.No.702/1, 702/2 & 702/3 in Karungalakudi Village, Melur Taluk, Madurai.

For Petitioner : Mr.H.Arumugam

For Respondents : Mr.J.Ashok
Additional Government Pleader for R1 to R4
Mr.K.Baalasundharam for R5



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COMMON ORDER

[Order of the Court was made by S.S.SUNDAR, J.]

W.P.(MD) No.25002 of 2022 is filed for issuance of a writ of mandamus directing the respondents 1 to 5 to take appropriate action to cancel the patta issued in favour of the sixth respondent in respect of S.F.Nos. 702/1, 702/3 and 702/21 of Karungalakudi Village, Melur Taluk, Madurai District.

2. W.P.(MD) No.15361 of 2023 is filed for issuance of a writ of mandamus forbearing the respondents not to lay any road by encroaching the petitioner's patta land in Natham Survey Nos.702/1, 702/2 & 702/3 of Karungalakudi Village, Melur Taluk, Madurai.

3. Since the reliefs sought for in the writ petitions are interlinked with each other, both the writ petitions are clubbed together, heard together and are being disposed of by this common order.



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4. The petitioner in W.P.(MD) No.25002 of 2022 is the fifth respondent in W.P.(MD) No.12953 of 2023 and the petitioner in W.P.(MD) No. 12953 of 2023 is the sixth respondent in W.P.(MD) No.25002 of 2022.

5. The petitioner in W.P.(MD) No.15361 of 2023 states that the property in Survey Nos.702/1, 702/2 & 702/3 of Karungalakudi Village, Melur Taluk, Madurai District, is his patta land and that under Natham Settlement, his possession and enjoyment over the said land is confirmed.

6. However, it is the case of the petitioner in W.P.(MD) No.25002 of 2022 that the land in Survey Nos.702/1, 702/2 & 702/3 of Karungalakudi Village, Melur Taluk, Madurai District, is a vacant site in a larger extent of land and the same is part of a pathway, which is being enjoyed by the public to have access to their respective houses.

7. Even though in W.P.(MD) No.25002 of 2022 the case was pleaded that by relying upon the revenue records, the official respondents have come with a positive case that the land in Survey Nos.702/1, 702/2 &



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702/3 is the patta land of the petitioner in W.P.(MD) No.15361 of 2023. The petitioner in W.P.(MD) No.25002 of 2022 is not concerned with the other survey number, which is referred to in W.P.(MD) No.15361 of 2023, i.e. Survey No.702/2.

8. In a writ petition filed under Article 226 of the Constitution of India, this Court cannot go into the contentious issues relating to title of the individuals. The petitioner in W.P.(MD) No.25002 of 2022 has produced revenue records, which do not tally with the substantial documents filed by the petitioner in W.P.(MD) No.15361 of 2023. In these circumstances, this Court finds that the writ petition in W.P.(MD) No.25002 of 2022 cannot be entertained by assuming that the sixth respondent, who is the petitioner in W.P.(MD) No.15361 of 2023, is in encroachment, having regard to the documents and revenue records produced by him.

9. Hence, having regard to the fact that few issues raised by the petitioner in W.P.(MD) No.25002 of 2022 relating to the pathway is not supported by any revenue documents and that the documents filed by the sixth respondent in W.P.(MD) No.25002 of 2022, who is the petitioner in W.P.



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(MD) No.15361 of 2023, show that the land in dispute lies within the survey fields, for which a natham patta has been granted in favour of the sixth respondent in W.P.(MD) No.25002 of 2022, who is the petitioner in W.P.(MD) No.15361 of 2023, the writ petitions are disposed of with the following directions:

- (i) W.P.(MD) No.25002 of 2022 is dismissed with liberty to the petitioner therein to approach the Civil Court to establish that he or any member of the public is having right of easment over the disputed pathway, to have access to their respective houses.
- (ii) When a civil suit is filed by the petitioner in W.P.(MD) No.25002 of 2022, the same shall be disposed of on merits and in accordance with law uninfluenced by any of the observations made by either the revenue officials in the revenue records or by this Court in this order.
- (iii) Since the official respondents have admitted that the petitioner in W.P.(MD) No.15361 of 2023 is holding patta in respect of the property in Survey Nos.702/1,



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702/2 & 703/3 of Karungalakudi Village, W.P.(MD)

No.15361 of 2023 is allowed. However, the title as claimed by the petitioner in W.P.(MD) No.15361 of 2023 and the classification of the land will be subject to the outcome of the suit that may be filed by the petitioner in W.P.(MD) No.25002 of 2022.

(iv) No costs. Consequently, connected miscellaneous petition is closed.

[S.S.S.R., J.]

[D.B.C., J.]

24.07.2023

(2/2)

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To:

1.The District Collector,
Madurai, Madurai District.

2.The Revenue Divisional Officer,
Melur Revenue Division,
Madurai District.



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- 3.The Tahsildar,
Melur Taluk,
Madurai District.
- 4.The Block Development Officer,
Kottampatti Panchayat Union,
Melur Taluk, Madurai District.
- 5.The Panchayat President,
Karungalakudi Panchayat,
Melur Taluk, Madurai District.
- 6.The Sub-Inspector of Police,
Kottampatti Police Station,
Madurai.



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S.S.SUNDAR, J.
and
D.BHARATHA CHAKRAVARTHY, J.

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W.P.(MD) Nos.25002 of 2022 & 15361
of 2023
and
W.M.P.(MD) No.12953 of 2023

24.07.2023
(2/2)