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W.P.No.24123 of 2024

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 06.09.2024**

**CORAM**

**THE HONOURABLE MR. JUSTICE S.SOUNTHAR**

**W.P No.24123 of 2024**

Nagaraj @ Munisamy

...Petitioner

Vs.

1.The District Collector, Krishnagiri.

2.The Sub Collector, Hosur.

3.The Tahsildar, Hosur.

...Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to transfer the patta in the name of petitioner and his mother Thimmaka for the land of Dry Hec. 0.36.5 in S.No.502/2A of Achettipalli Village and pass further orders.

For Petitioner : Dr.G.Babu

For Respondents : Mr.A.Selvendran for R1 to R3  
Special Government Pleader



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## **ORDER**

The petitioner herein seeks a direction to the respondents to transfer the patta in his name, in respect of the land situated in S.No.502/2A of Achettipalli Village.

2. According to the petitioner, his father namely Narayanappa purchased the above mentioned land under the sale deed dated 19.04.1975 from Thimmakka and his sons with the condition that if Pukkappa @ Muniyappa and his sons repay the said consideration of Rs.1500/- within four years, his father will be liable to execute a reconveyance deed in favour of the said Pukkappa @ Muniyappa and his sons.

3. It is further stated by the petitioner that as per the condition, said Pukkappa @ Muniyappa and his sons did not come forward to repay amount and get the reconveyance deed in time. Since the petitioner's father has been in possession and enjoyment of the property, patta for the same has not been transferred in favour of the petitioner. The above said Pukkappa @ Muniyappa and others entered into a partition deed with respect to the property on 09.06.2010 by claiming right over the subject property. Hence, the



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petitioner filed a suit for declaration and recovery of possession in OS.No.101 of 2010 on the file of the District Munsif-cum-Judicial Magistrate I, Hosur. The said suit was decreed by declaring title of the plaintiff and granting a decree for recovery of possession.

4. In the affidavit filed in support of this petition, the petitioner has stated that he has filed a suit for declaration of title and permanent injunction against the defendants therein and the same was decreed. However, as seen from the judgment and decree enclosed in the typed set of papers, the petitioner admitted the possession of the defendants therein and filed a suit for declaration of title and recovery of possession and the same was decreed.

5. When this Court put a question to the learned counsel for the petitioner whether petitioner had taken possession of the property through Court, the learned counsel for the petitioner submitted that the petitioner has been in possession and enjoyment of the property. However, in the light of the plaint averment in OS.No.101 of 205, as evidenced in the extract of the plaint averments in the judgment, the petitioner himself admitted the possession of the defendants therein and sought for relief of recovery of possession. Unless the



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petitioner establishes that, subsequent to the decree for possession, he obtained the possession of the property from the defendants therein through Court or any other legal means, the petitioner is not entitled to assert possession over the subject property and seek issuance of patta as if he is in possession of the property.

6. Therefore, this Court is not inclined to issue any positive direction to the respondents when the petitioner is not able to show that he has taken possession subsequent to the decree passed in his favour. Therefore, it is open to the petitioner to execute the decree and get the possession of the property through Court and then seek issuance of patta in his name.

7. With the above liberty, this Writ Petition is disposed of. No costs.

**06.09.2024**

Index : Yes/No  
Internet : Yes/No  
Speaking Order/Non-Speaking Order  
dna



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**To**

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- 1.The District Collector, Krishnagiri.
- 2.The Sub Collector, Hosur.
- 3.The Tahsildar, Hosur.



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**S.SOUNTHAR, J.**  
dna

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