



W.P.(MD) No.18734 of 2024

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.08.2024

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.18734 of 2024

Shyam

... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented its by District Collector,
Kanyakumari District.

2.The Revenue Divisional Officer,
O/o the RDO Office Building,
Padmanabhapuram Division,
Kanyakumari District.

3.The Zonal Deputy Tahsildar,
O/o Killiyoor Taluk Office, Killiyoor Taluk,
Kanyakumari District.

4.The Village Administrative Officer,
Choozhal Village, Killiyoor Taluk,
Kanyakumari District.

5.The Authorized Officer,
Indian Overseas Bank, Regional Office,
Thiruvananthapuram,
State of Kerala.

.. Respondents



W.P.(MD) No.18734 of 2024

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, directing the 3rd respondent to follow section 10 of Tamil Nadu Patta Pass Book Act, 1983 and Rules 1987 and to issue separate patta in the petitioner name in respect of Sy.No.37/4, situated at Choozhal Village, Killiyoor Taluk, Kollencode - SRO, Kanyakumari District, measuring an extent of 1133.19 square meter + 146 square meter (28 cents) on the petitioner Application ID No. 2023/0103/30/605450 within a time stipulated by this Court.

For Petitioner	:	Mr.P.M.Vishnu Varthanan
For R1 – R4	:	Mr.D.S.Neduncheziyan Government Advocate
For R5	:	Mr.N.Dilip Kumar Standing Counsel

ORDER

The petitioner who is an auction purchaser has filed this writ petition for a Mandamus to the 3rd respondent to follow the provisions of Section 10 of the Tamil Nadu Patta Passbook Act and issue separate patta in his name in respect of the lands measuring an extent of 1133.19 square meter + 146 square meter (28 cents) totally measuring an extent of 28 cents comprised in Survey No.37/4, Choozhal Village, Killiyoor Taluk, Kollencode - SRO, Kanyakumari District.



W.P.(MD) No.18734 of 2024

WEB COPY

2. The petitioner's case is that he was a successful bidder in an auction conducted under the provisions of the SARFAESI Act and sale certificate, dated 13.09.2023 was issued in his favour which was registered on 19.09.2023 in document no.4466/2023. The petitioner would submit that earlier the patta stood in the joint names of 14 persons, which originally belonged to one Nirmalan s/o Gopalan Panicker. The petitioner would submit that the possession was handed over to him pursuant to the orders of the Chief Judicial Magistrate, Nagercoil in Cr.M.P.No.14163/2023, dated 23.11.2023.

3. After the sale certificate had been registered in his favour, the petitioner had made an online application on 26.09.2023 to the 3rd respondent. However, the 3rd respondent did not process the same. The petitioner was orally informed that a civil suit was pending. It appears that the said Nirmalan has been making continuous attempts through his friends by filing various suits so as to ensure that the 5th respondent bank does not proceed to sell the same for recovering their dues. The petitioner would submit that the online petition was ultimately rejected on the basis



W.P.(MD) No.18734 of 2024

of a false report submitted by the 4th respondent. Therefore, the petitioner is before this court.

4. The petitioner would submit that the patta has not been granted on the ground that suits were pending. The following table has been produced by him to show the number of suits filed:-

S.No.	Date of filing	O.S.No.	Status	Remarks
1.	16.09.2023	O.S.No.972/2023 (Domnic Vs. Nirmalan) on the file of Additional Munsif No.II, Neyyattinkara, State of Kerala	Disposed on 17.07.2024	
2.	23.09.2023	O.S.No.985/2023 (Benedic Benseyar Vs. Nirmalan) on the file of Additional Munsif No.II, Neyyattinkara, State of Kerala	Disposed on 05.03.2024 (Plaint Rejected)	



W.P.(MD) No.18734 of 2024

WEB COPY

3.	24.11.2023	O.S.No.76/2023 (Gopa Kumar Vs. Nirmalan) on the file of Sub-Court, Neyyattinkara, State of Kerala	Disposed on 26.03.2024 (Attachment raised)	I.A.No. 2/2024 (Claim Petition) filed by the writ petitioner
4.	22.06.2024	O.S.No.585/2024 (Madhu Vs. Nirmalan) on the file of Additional Munsif No.II, Neyyattinkara, State of Kerala	Pending for final argument	I.A.No. 3/2024 (Claim Petition) filed by the writ petitioner, Next Date 05.09.2024

5. A perusal of the same would show that what is pending is only O.S.No.585/2024 on the file of the Additional Munsif No.II, Neyyattinkara, State of Kerala. The said suit is one for recovery of money of a sum of Rs.6,00,000/- with interest at 6%. The loan on this promissory note has been obtained long after the petitioner had obtained the registered sale certificate (13.09.2023) and after he had been put in possession pursuant to the orders of the Chief Judicial Magistrate, Nagercoil on 23.11.2023. Therefore, these sale deeds are all post the auction sale and appears to be a collusive suit. The suit is only for



W.P.(MD) No.18734 of 2024

WEB COPY

recovery of money and it is also brought to the notice of the Court that there is another property standing in the name of the 3rd respondent which is an unencumbered property which the creditors can seek to attach. Therefore, considering the fact there is no impediment for the grant of the same, the 3rd respondent is directed to survey and subdivide the portion purchased by the auction purchaser and thereafter, issue patta with reference to the said lands within a period of eight (8) weeks from the date of receipt of copy of this order.

6. With the above directions, this writ petition stands allowed. No costs.

14.08.2024

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

gbg

To

1.The District Collector,
Kanyakumari District.



W.P.(MD) No.18734 of 2024

WEB COPY

- 2.The Revenue Divisional Officer,
O/o the RDO Office Building,
Padmanabhapuram Division,
Kanyakumari District.
- 3.The Zonal Deputy Tahsildar,
O/o Killiyoor Taluk Office, Killiyoor Taluk,
Kanyakumari District.
- 4.The Village Administrative Officer,
Choozhal Village, Killiyoor Taluk,
Kanyakumari District.



WEB COPY



W.P.(MD) No.18734 of 2024

P.T.ASHA, J.

gbg

W.P.(MD) No.18734 of 2024

14.08.2024