



Writ Petition No.7959 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 15.04.2025

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.7959 of 2025
and
W.M.P.Nos.8941 & 8942 of 2025

K.Jayaprakash
S/o.Kathiresan Prabhu

Petitioner

Vs

1. State of Tamil Nadu
represented by its Principal Secretary to Government,
Fort St George, Chennai 600 009.
- 2.The Secretary,
The Social Welfare and Women Empowerment
Department, Fort St George, Chennai 600 009.
- 3.The Commissioner of Land Administration,
Ezhilagam, Chepauk, Chennai 600 005.
- 4.The District Collector,
District Collectorate Office, Nagapattinam District.
- 5.The District Revenue Officer,
District Collectorate Office, Nagapattinam District.
- 6.The Revenue Divisional Officer,
RDO Office, Nagapattinam District.



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7.Tahsildar

Taluk Office, Court Complex,
Nagapattinam District.

8.The District Social Welfare Officer
The District Social Welfare Office,
Nagapattinam District 611 001.

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorarified Mandamus calling for records of the 1st respondent pertaining to the impugned Government Order passed in G.O.(Ms) No.443 dated 22.10.2024 and quash the same as arbitrary, illegal and against the principles of natural justice and consequently restraining the respondents from interfering with petitioner's peaceful possession and enjoyment over the subject matter property to an extent of 16,771 sq.ft. situated in T.S.No.340/2 in Ward No.4, Block No.11, Palpannai Cherry, Nagapattinam Town, Nagapattinam District, till the disposal of the civil suit in O.S.No.46/2024 on the file of the District Court, Nagapattinam.

For Petitioner : Mr.S.Parthasarathy, Senior Counsel
for Mr.P.Dinesh Kumar

For Respondents : Mr.J.Ravindran,
Additional Advocate General
assisted by Mr.A.Selvendran,
Special Government Pleader



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ORDER

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This writ petition has been filed challenging the impugned Government order passed in G.O.Ms.No.443 dated 22.10.2024 as arbitrary, illegal and for a consequential direction to the respondents not to interfere with the peaceful possession and enjoyment of the property of the petitioner pending the suit in O.S.No.46/2024 on the file of the District Court, Nagapattinam.

2. Heard Mr.S.Parthasarathy, learned Senior Counsel appearing for petitioner and Mr.J.Ravindran, learned Additional Advocate General appearing for respondents.

3. The grievance of the petitioner is that he is the absolute owner of the subject property in T.S.No.340/2 and this property has been dealt with right from the year 1936 onwards and the petitioner became the absolute owner of the property by virtue of the Will dated 12.08.1993 executed by one A.D.Jayaveerapandiya Nadar, who became the owner of the property through a registered sale deed dated 18.08.1963. The petitioner was apprehending that taking advantage of the wrong classification made as 'sarkar poramboke chatiram', the petitioner would



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be illegally evicted from the property. In view of the same, the petitioner sought for patta and sought for changing the classification of the property. The said claim made by the petitioner was negated by the District Revenue Officer through proceedings dated 02.07.2024. The said proceedings became a subject matter of challenge in W.P.No.24997 of 2024. This writ petition was dismissed by an order dated 30.08.2024 and the relevant portions are extracted hereunder:

"2. According to the petitioner, he is the absolute owner of the property with an extent of 16,771 Sq.feet in T.S.No.340/2 having got the property under a registered will dated 17.08.1995 executed by his grand father one A.D.Jayaveerpandiyar. It is also asserted by the petitioner that he has produced the registered sale deed in the name of previous owners right from the year 1936 to establish his right over the property and the same has not been considered by the 2nd respondent. The request of the petitioner for grant of patta has been negated by the impugned order.

3. A perusal of the impugned order would suggest that land in Town Survey No.340/2 with an extent of 16,771 Sq.feet has been classified as "Sarkar Poramboke Chathiram" in the revenue records right from the year 1923. It is clearly observed by the 2nd respondent in the impugned order that the land with an extent of 4 acres 13,634 Sq.feet in T.S.No.340/1 classified as "Inam Punjai" and the patta had been transferred in favour of private parties and as on today the patta for the said property in T.S.No.340/1 stands in the name of the petitioner.

4. As far as land in T.S.No.340/2 with an extent of 16,771 Sq.feet is concerned, the same was classified as "Sarkar Poramboke Chathiram" in the A-register prepared in the year 1923. Even if the Town Survey Register prepared in the year 1933, the said land has been classified as "Sarkar Poramboke



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Chathiram". Though the petitioner claims that he produced registered documents of his previous owners from the year 1936, there is no explanation on the part of the petitioner why neither the petitioner nor his previous owners made any attempt to enter their name in the revenue records from the year 1936. Therefore, by relying on A-register of the year 1923 and Town Survey Register of the year 1933 which were anterior to the title deeds produced by the petitioner, the 2nd respondent negated the request of the petitioner seeking transfer of patta.

5. I do not find any error in the conclusion reached by the 2nd respondent and negating the claim of the petitioner. However, the dismissal of the writ petition will not come in any way of petitioner establishing his right before the competent Civil Court.

6. With these observations, the writ petition stands dismissed. Consequently, the connected miscellaneous petitions are closed. No costs."

4. Pursuant to the above order, the petitioner filed a suit in O.S.No.46 of 2024 before the District Court, Nagapattinam and sought for the relief of declaration of title and for permanent injunction. When this suit was pending, the impugned Government Order in G.O.Ms.No.443 dated 22.10.2024 came to be issued by transferring the property in favour of the Social Welfare and Human Empowerment Department for the purpose of constructing a working Women's Hostel. Aggrieved by the same, the present writ petition has been filed before this Court.



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5. Learned Senior Counsel appearing on behalf of the petitioner submitted that the petitioner has already approached the competent civil Court to establish his title as was directed by this Court in the earlier writ petition and an interim application has also been filed seeking for protecting the possession of the property. While so, the impugned Government Order was passed by transferring the property to the Social Welfare and Women Empowerment Department and in the guise of constructing a Women's Hostel, an attempt is being made to interfere with the possession and enjoyment of the property. Learned Senior Counsel submitted that the petitioner is in possession and enjoyment of the property and if at all, the petitioner is sought to be evicted, the respondents must resort to due process of law and they cannot take law into their hands.

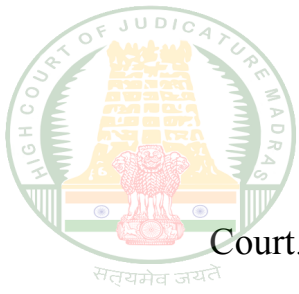
6. *Per contra*, learned Additional Advocate General appearing on behalf of the respondents submitted that a substantive suit is pending before the civil Court and the petitioner has also sought for an order of interim injunction in I.A.No.3 of 2024 and the same is pending. While so, the petitioner has approached this Court questioning the Government Order over which the petitioner cannot have any grievance and the main



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purpose of filing this writ petition is only to get an order of interim protection. Learned Additional Advocate General submitted that the revenue records right from the year 1923 shows that the subject property in T.S.No.340/2 was classified only as 'sarkar poramboke chatiram' and at no point to time, the possession was taken over by the petitioner and the possession continues with the respondents. Learned Additional Advocate General submitted that this is the second round of litigation initiated by the petitioner and this Court has already directed the petitioner to agitate the right before the civil Court and once again, the petitioner has knocked the doors of this Court. In view of the same, the learned Additional Advocate General sought for the dismissal of this writ petition.

7. In the considered view of this Court, the petitioner had earlier sought for issuance of patta by re-classifying the property in T.S.No.340/2. This request was rejected by the District Revenue Officer and the same was put to challenge before this Court in W.P.No.24997 of 2024. This Court, considering the nature of grievance, was not inclined to interfere with the order passed by the District Revenue Officer and directed the petitioner to agitate his rights before the competent civil



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Court. Pursuant to the said order, a suit has been filed in O.S.No.46 of 2024 seeking for the relief of declaration of title and for permanent injunction and the same is pending on the file of District Court, Nagapattinam. While so, the Government Order came to be passed by transferring the subject property, which has been classified as 'sarkar poramboke chatiram' to the Social Welfare and Women Empowerment Department.

8. The petitioner cannot have any grievance with respect to the impugned Government Order since till date, the subject property in T.S.No.340/2 continues as a 'sarkar poramboke chatiram'. Hence, the transfer of this property from one department to another cannot be questioned by the petitioner. This is in view of the fact that the petitioner is yet to establish his right and title over the property in the suit pending before the competent civil Court.

9. The second portion of the relief sought for by the petitioner is to restrain the respondents not to interfere with the possession and enjoyment of the property pending disposal of the civil suit in O.S.No.46 of 2024. This relief sought for by the petitioner is wholly misconceived.



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The first reason is that when a substantive suit is pending before the civil Court, interim protection can only be sought for before the civil Court and the writ jurisdiction cannot be invoked for this purpose. The law on this issue is now too well settled. The second reason is that an application is already pending before the civil Court in I.A.No.3 of 2024 seeking for an order of interim injunction. That being so, parallely, the petitioner cannot be allowed to seek for the same interim relief by filing a writ petition.

In the light of the above discussion, this Court does not find any merits in this writ petition and accordingly, this writ petition stands dismissed. It is left open to the petitioner to move the application in the pending suit before the civil Court and seek for interim protection and work out his remedy in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

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Neutral Citation: Yes/No
Index: Yes/no
Speaking Order/Non-Speaking Order
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N.ANAND VENKATESH, J

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To

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The Social Welfare and Women Empowerment
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