



WA No. 1826 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on 01.07.2025	Pronounced on 29.08.2025
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CORAM

**THE HONOURABLE DR.JUSTICE ANITA SUMANTH
AND
THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR**

**WA No. 1826 of 2025 and
CMP Nos.1264 of 2025, 13993 of 2025 and
C.M.P.Nos.17284 of 2023 and 29005 of 2024 in O.S.A.No.60 of 1959**

Sarvothaman

S/o. Late. Somasundaram Chettiar,
No.79, 6th Main Road, Pillaichavadi
Post Office, Villupuram,
Mahaveer Nagar, Puducherry 605 008.

Appellant(s)

Vs

1. Francis George, S/o. Late. P.C. George,
Flat No.5, Ashirwad Apartments,
5/9, Akbarabad 2nd Street, Kodambakkam,
Chennai 600 024.

2.The District Revenue Officer
Chennai District, 4th Floor,
Chennai Collectorate, Chennai 1.

3.The Revenue Divisional Officer
(Chennai South) Guindy, Chennai 600032.



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4.The Tahsildar

Velachery Taluk Office,
Seva Nagar, 1st Street, Soni Nagar, Periyar
Nagar Extension,
Velachery, Chennai 042.

5.A.Baskar

S/o. Late. Appapillai Chettiyar,
No.10, Draupadi Amman Koil Street,
Pillaichavadi Post, Villupuram 605041.

6.B.Saroja, W/o. A.Basker,
No.10, Draupadi Amman Koil St,
Pillaichavadi Post, Villupuram 605 041.

Sathiya @ J.S. Sathiya (died)

7. N.Selvaradjalou Chetty Trust
Rep by its Chairman, S. Kalyanam, No.21,
(Old No.10), 1st Floor,
Armenian Street, Chennai 600 001.

8.J.Ganapatha, S/o. Jugrajii,
D.No.35, Varada Muthiappan Street,
Chennai 1.

Respondent(s)

PRAYER in W.A.No.1826 of 2025

Appeal filed under clause 15 of Letters Patent Appeal to set aside the order dated 08.04.2025 passed in WP No.35224 of 2024 on the file of this Court.



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For Appellant(s): Mrs.Hema Sampath
Senior Counsel
for Mr.A.D.Balasubramaniam

For Respondent(s): Rajnish Pathiyil (for R1)
Mr. A.Selvendran (for R2 to R4)
Learned Special Government

JUDGMENT

N.SENTHILKUMAR, J.

The present Writ Appeal is filed challenging the order passed in WP No.35224 of 2024 on 08.04.2025 by the learned single Judge of this Court.

2.The appellant herein is the 6th respondent in the Writ Petition and the first respondent is the petitioner in Writ Petition.

3.The Case of the Writ Petitioner/first respondent herein is as follows:

3.1.The writ petitioner, along with one Mr. Elango, are the absolute owners of the subject property, having purchased it through a sale deed dated 29.12.2006, registered as Document No. 10030 of 2006 in the office of the Joint Sub-Registrar-I, South Chennai, Saidapet. Subsequently, an attempt was made to unlawfully claim ownership over the property by the 5th respondent based on a purported Will dated 20.05.1980, allegedly executed by late Mrs.Padmini Chandrasekaran, bequeathing the property to the 7th respondent Trust. Following

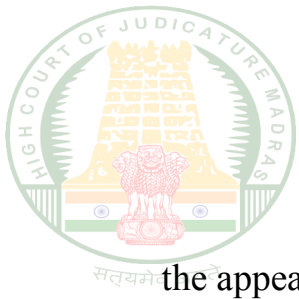


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this, the 7th respondent Trust, represented by the 5th respondent (claimed to be the sole Trustee), filed O.P.No.382 of 2008 seeking probate of the said Will. Dr.H.B.N.Shetty, who is one of the Trustees of the 7th respondent Trust, entered a caveat and objected to the grant of probate. Consequently, the original petition was converted into a testamentary original suit in T.O.S.No.42 of 2008. Dr.H.B.N.Shetty also filed Application No.2289 of 2012 seeking dismissal of the suit, which was allowed on 31.07.2012, resulting in dismissal of the suit.

3.2.Aggrieved by the dismissal, the 7th respondent Trust, through the 5th respondent, filed an appeal in O.S.A.No.91 of 2013 before this Court. However, the appeal was dismissed as withdrawn by judgment dated 06.03.2017. In the meantime, the 5th respondent executed a settlement deed dated 02.11.2009, registered as Document No.5452 of 2009 at the office of the Joint I Sub-Registrar, South Chennai, in favour of his wife, the 6th respondent. Based on this settlement deed, patta was issued in her favour, and corresponding entries were made in the Permanent Land Register by the 4th respondent.

3.3.Upon becoming aware of this on 27.03.2023, the writ petitioner filed an appeal on 05.04.2023 before the 3rd respondent under Section 12 of the Tamil Nadu Patta Passbook Act, seeking cancellation of the patta issued to the 6th respondent. However, the 3rd respondent, by order dated 02.12.2023, rejected



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the appeal.

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3.4. Aggrieved by this rejection, the petitioner preferred a revision petition dated 26.12.2023 before the 2nd respondent. By an order dated 27.08.2024, the 2nd respondent directed the parties to seek redressal before the competent Civil Court and declined to cancel the patta issued in favour of the 6th respondent. Challenging the said order, the writ petition has been filed before this Court.

4. The Case of the Appellant (6th Respondent in the Writ Petition) is as follows:

4.1. The appellant herein, who was arrayed as the 6th respondent in the writ petition, filed a counter-affidavit contesting the claim of title by the writ petitioner. The appellant asserted that the title of the writ petitioner is highly questionable and that none of the original records are available to verify the authenticity of the orders relied upon by the petitioner.

4.2. The appellant further stated that multiple petitions have already been filed before the Registry of this Court, alleging that fraud was committed under the guise of a court auction. In this context, the appellant filed a petition in C.M.P.No.17284 of 2023 in O.S.A.No.60 of 1959, seeking to discharge the security bond executed by his father. In the said petition, notice was served on the Registrar General of this Court on 12.12.2023, and a direction was issued by



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the Division Bench of this Court to file a status report.

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4.3.Pursuant to this direction, a status report dated 02.02.2024 was filed, revealing that the auction sale proceedings in question were fraudulent and had been carried out by misusing the name of the Court.

4.4.The appellant contended that the sale deed in favour of the writ petitioner and another is a fabricated document, and as such, it does not bind the appellant. Accordingly, the appellant prayed for dismissal of the writ petition.

5.Findings of the Learned Single Judge are as follows:

5.1.The learned Single Judge, while dismissing the writ petition, held that the title to the subject property flows from Mrs.Padmini Chandrasekaran, who had obtained the property vide sale deed dated 14.09.1963 through a court auction executed by one Mrs.Jayalakshmi Ammal and four others represented by the Advocate Commissioner Mr.S.S.Ramachandra Iyer, who was also the power agent. Thereafter, she bequeathed the property in favour of the 7th respondent Trust through a Will dated 30.09.1975. Subsequently, the Trust sold the property to the writ petitioner and the said Mr.Elango under a registered sale deed dated 29.12.2006, in Document No.10030 of 2006. This sale deed was executed by the trust represented by the said Dr.H.B.N.Shetty in his capacity as the executor of the Will dated 30.09.1975 and by one Mr.N.Vinayagamoorthy,



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who was the confirming party in his capacity as the beneficiary of the Will.

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5.2.However, despite this chain of title, patta for the property was transferred in favour of the 6th respondent (5th respondent's wife) by the 4th respondent, solely based on an unregistered Will dated 20.05.1980 and a settlement deed executed by the 5th respondent herein dated 02.11.2009.

6.Challenging the order of the Tahsildar/4th respondent issuing the patta in the name of the 6th respondent, the writ petition was filed and the same was allowed by the learned single Judge of this Court on the ground that the mutation of patta in favour of the 6th respondent is not in consonance with law and directed the 4th respondent herein to restore the patta in the name of Mrs.Padmini Chandrasekaran and thereafter, issue the patta in the name of the writ petitioner and one Mr.Elango based on the registered sale deed dated 29.12.2006 within a period of six weeks from the date of receipt of a copy of that order.

7.As against the said order of the learned single Judge of this Court, the present Writ Appeal is filed.

8.On perusal of the grounds of appeal filed by the appellant, it is clear that the appellant is questioning the title of Mrs.Padmini Chandrasekaran by raising

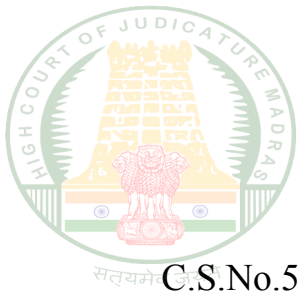


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serious doubts against the sale deed executed through court auction.
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9. According to the appellant, he is the adopted son of one Mr. Somasundaram Chettiar against whom the said Mrs. Padmini Chandrasekaran filed a Suit in C.S.No.329 of 1952 for recovery of life insurance money, jewels and company of her father Mr. N. Selvaradjalou Chettiar. Though C.S.No.329 of 1952 was decreed directing the appellant's father to pay certain amount under clause 4 and 5 of the decree to Mrs. Padmini Chandrasekaran, a division bench of this Court in CMP.No.5464 & 6172 of 1959, granted stay of clause 5 on a condition that the appellant's father furnished security for the amount stayed.

10. In compliance of the same, the appellant's father Mr. Somasundram Chettiar furnished a security bond in favour of the Registrar, High Court of Madras, by pledging his properties including the subject property. The security bond was executed in O.S.A.No.60 of 1959. According to the appellant, a joint memo of compromise was filed by Mrs. Padmini Chandrasekaran in O.S.No.6 of 1968 filed by the appellant's mother, in respect of some properties situated in Pondicherry, wherein the said Mrs. Padmini Chandrasekaran had stated that she had received the entire amount due to her as per the decree in C.S.No.329 of 1952 from the appellant's father. The stand taken by the 7th respondent trust in



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C.S.No.504 of 1998 is that, Mrs.Padmini Chandrasekaran had purchased the property given by the appellant's father under the security bond mentioned supra through court auction.

11.The contention of the appellant is that no such court auction sale took place. According to the appellant, the original security bond furnished by the appellant's father was still intact in the court bundle, when he received such information under the RTI Act. Therefore, Mrs.Padmini Chandrasekaran have not purchased the property given by the appellant's father under the security bond. On this strength and based on the Will dated 30.05.1962 written by the appellant's father, the appellant is making a claim over the property.

12.C.M.P.No.29005 of 2024 in O.S.A.No.60 of 1959 is filed by the appellant to record the Compromise Decree dated 29.04.1970 passed by the Principal District Judge Court, at Pondicherry in O.S.No.6/1968, which evidences the discharge of Decretal debt against the Security Bond dated 24.08.1960 in O.S.A.No.60/1959 in C.S.No.329/1952, due by his late father Somasundaram Chettiar to his late first cousin Padmini Chandrasekaran and to pass an order to release the schedule of properties from the Security Bond dated 24.08.1960, and to direct the Sub Registrar Chennai North Joint I to cancel the said Security Bond before this Court. According to the appellant, the said



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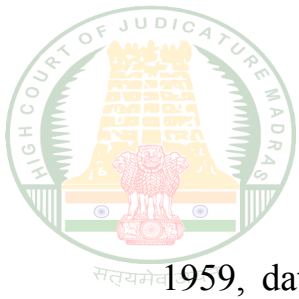
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decree evidences the discharge of Decreetal debt against the Security Bond executed by the appellant's father.

13.In the said C.M.P.No.29005 of 2024 in O.S.A.No.60 of 1959, the appellant herein filed an affidavit seeking copies of orders made in C.M.P.No.4210/1962 in O.S.A.No.60/1959, dated 04.05.1962, 06.03.1963 & 12.08.1963. The appellant questioned the genuineness of the above orders passed by this Court in C.M.P.No.4210 of 1962 in O.S.A.No.60 of 1959. **It is necessary to note that the suit is of the year 1959 and the present CMP was filed in the year 2024, after a period of 65 years.** In this regard, the learned single Judge has also observed as follows:

“The sixth respondent is conveniently questioning the earlier orders of this Court passed during the years from 1960 to 1970 at this length of time. The sixth respondent cannot merely raise doubts about the orders passed by this Court on the ground that some of the original documents are not available and that some of the orders of this Court were not able to be obtained. In the considered view of this Court, all the orders that were passed by this Court have been filed by the petitioner and there is no reason to doubt the genuineness of those orders at this length of time.”

14.On verification of records, available in the Registry, it is revealed that among the three orders passed in C.M.P.No.4210 of 1962 in O.S.A.No.60 of



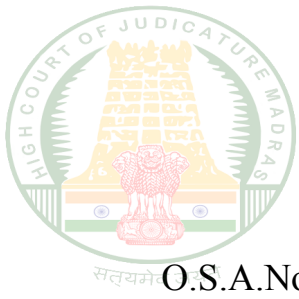
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1959, dated 04.05.1962, 06.03.1963, and 12.08.1963, the orders (true copy) dated 06.03.1963 and 12.08.1963 are presently available in a dilapidated condition, as they pertain to the year 1963. Further, photocopies of the orders dated 04.05.1962 and 06.03.1963 are available in Volume II of the typed set of papers submitted by the 6th respondent. The details of the records available in the Court bundle are furnished hereunder:

<i>Order dated</i>	<i>Photocopy</i>	<i>True copy</i>
04.05.1962	Available	Not available
06.03.1963	Available	Available
12.08.1963	Not available	Available

15.The claim made by the appellant and various proceedings of this Court and the Hon'ble Supreme Court would only show that flow of title is not in favour of the appellant and CMP.No.29005 of 2024 is only an after thought.

16.It is pertinent to note that in 1992, one Mr.V.Aumughachandran claiming to be the power agent of the appellant sold the subject vacant land property of 61 cents in Thiruvanmiyur to one Ganpatha and three of his friends. Mr.N.Selvaradjalou Chetty Trust filed C.S.No.504 of 1998 against the appellant and others for setting aside these sale deeds. C.S.No.504 of 1998 was decreed confirming the title of the 7th respondent trust over the subject property.



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O.S.A.No.230 of 2007 was filed challenging the aforesaid judgment in C.S.No.504 of 1998, wherein the judgment in favour of the trust was confirmed.

Mr.J.Ganapatha and others filed S.L.P.No.827 of 2017 against the trust which came to be dismissed by the Hon'ble Apex Court with a cost of Rs.1,00,000/-.

The relevant portion of the order is extracted hereunder:

“19.To sum up, we noticed that the late Somasundaram Chettiar offered the properties, including the Plaint Schedule, as surety for the realisation of the amounts decreed in favour of the late Padmini Chandrasekaran. The surety offered by the late Somasundaram Chettiar was put in the execution for the decree in favour of the late Padmini Chandrasekaran. On 04.05.1962, the Plaint Schedule was purchased by the late Padmini Chandrasekaran through court auction. Late Somasundaram Chettiar was alive when the court sale was conducted. Thereafter, he bequeathed the Plaint Schedule in favour of S.Sarvothaman/ Defendant No.1. The subtlety is appreciated firstly from the case of the plaintiff, i.e., the court sale order dated 04.05.1962 has become final and a sale deed was executed on 25.09.1963 in favour of the late Padmini Chandrasekaran. As long as the court sale and the sale deed remain intact, Defendant No.1 cannot and could not have claimed any right and title to the Plaint Schedule as an adopted son through the Will dated 30.05.1962, as probated on 30.03.1966. Through legal, valid and binding documents, the Plaint Schedule stood transferred in favour of the late Padmini Chandrasekaran. The findings of the learned Single Judge and the Division Bench are categorical and available in the case's facts and circumstances. The argument for the appellant is that moulding of relief by the impugned judgments is illegal.



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20. *The concept of moulding of relief refers to the ability of a court to modify or shape a relief sought by a party in a legal proceeding based on the circumstances of the case and the facts established after a full-fledged trial. The principle enables the court to grant appropriate remedies even if the relief requested in the pleading is not exact or could not be considered by the court or changed circumstances have rendered the relief obsolete. The court aims that justice is served while taking into account the evolving nature of a case. The above road map is pursued by a court based on the notion of flexibility in relief, equitable jurisdiction, and is tempered by judicial discretion. When moulding the relief, the court considers the issues and circumstances established during the full-fledged trial, looks at shortening the litigation, and then in its perspective, renders complete justice to the issue at hand. The converse of the above is that the moulded relief should not take the aggrieved party by surprise or cause prejudice. The relief is moulded as an exception and not as a matter of course.*

21. *The Defendant Nos. 3 to 6 do not question the competence of the court to mould the relief. The argument proceeds on the basis that in the circumstances of the case, moulding the relief in favour of the executors of the Will is illegal.*

22. *The issues in C.S.No.504 of 1998 have been set out supra. It is admitted that two of the Trustees and also the executors of the Will of the late Padmini Chandrasekaran died. Late Padmini Chandrasekaran died issueless and desired to provide testamentary succession to the properties held by her in two portions, i.e., one in favour of the Trust and the other in favour of the individuals. The Plaintiff Schedule has been bequeathed in favour of Vinayagamurthy and his children. The executors are Dr. H.B.N. Shetty and Shri R. Krishnamoorthy. One of the executors had died, and Dr.H.B.N. Shetty/Plaintiff No. 2 was fairly aged. It is in this background the*



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learned Single Judge, in the judgment dated 18.09.2006, has given the following reasons:

“49. The subject is very clear that 1st defendant has no title in suit property so as to convey it to defendants 3 to 6 and that is why it was found earlier that the sale in favour of defendants 3 to 6 is liable to be set aside.

50. Simply because H.B. N. Shetty, who happened to be the trustee of the plaintiff trust, filing the suit, is it necessary for him to file another suit in order to get a decree for setting aside the sale of defendants 3 to 6 of suit property and in order to oblige the terms of the Will of the testatrix, who was found as a real owner of the property. In my opinion, especially in the present facts and circumstances of the case, it is unnecessary to make him to go in for another suit, after a lapse of 8 years. After all H.B.N.Shetty, the executor himself is very aged (more than 80 years). As some of the executors passed away and some resigned and when H.B.N.Shetty-himself is very old, it may not be desirable to make him or other executor to file another suit.

51. If the law permits, then the suit can be decreed in favour of H.B.N.Shetty in his different capacity as executor of the Will of Padmini, the real owner.

xxx xxx xxx

54. As mentioned supra, Mr. H.B.N.Shetty sitting in the Arm of Testatrix undoubtedly had a substantial right to deal with suit property which can be done only after setting aside the sale in favour of defendants 3 to 6, which was held supra as invalid one. This finding was arrived only after keen contest between parties. Thus H.B.N.Shetty although filed the suit representing the Trust, when found holding capacity as executor of testatrix to execute a sale deed in order to



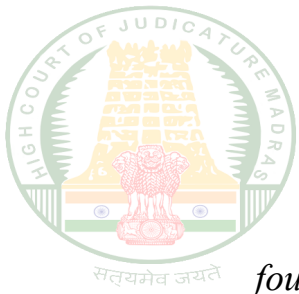
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implement the other terms of the Will, shall have to be clothed with a decree setting aside the sale in favour of defendants 3 to 6.”

23. The Division Bench through the impugned judgment confirmed the findings.

24. In the Civil Appeal, the consideration is not whether relief should be moulded or not, but the consideration would be whether moulding of relief in the circumstances of the case is tenable or warrants interference by this Court. The title and ownership acquired by the late Padmini Chandrasekaran on a full-fledged trial in the second round of litigation in the present proceedings have been accepted by the impugned judgments. The prayer to have the relief of declaration in favour of the Trust through the Trustees was not accepted. The court found that the Trust cannot claim the relief of declaration vis-à-vis the Plaintiff Schedule. The court also found that the testatrix made an independent disposition in favour of Vinayagamurthy and his children in the Plaintiff Schedule. The executor proved the entitlement of the late Padmini Chandrasekaran vis-à-vis the Plaintiff Schedule. Simultaneously, the claim of Defendant Nos. 3 to 6 through Defendant No. 1 is illegal and unsustainable. The findings on Issue No. 2 in the judgement of the learned Single Judge enable the moulding of relief even after answering Issue Nos. 4 and 5 against the first plaintiff. The issues have been agitated by the parties concerned in a full-fledged trial; however, the description of the plaintiff and the narrative in the plaint for claiming right and title to the Plaintiff Schedule is not accepted by the impugned judgements. While giving effect to these findings, in our considered view, the learned Single Judge and the Division Bench have appreciated the effect of finding on Issue No. 2. The objections of Defendant Nos. 3 to 6 that Somasundaram Chettiar died and his LRs were not represented in the sale deed are



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found to be factually incorrect by the impugned judgements. The non-challenge to the court sale and allowing the sale deed to remain intact would militate against even a strong plea, which could be stated in the next round of litigation. As a result, a fresh round of litigation for the same property, by applying judicious discretion, is avoided. In other words, the impugned judgments have exercised discretion in moulding the relief compatible and commensurate with the circumstances of the case. It is in nobody's interest except Defendant Nos. 3 to 6 to prolong the litigation by leaving it open to the parties to get into another round of litigation. Therefore, the argument of Defendants Nos. 3 to 6 on the moulding of relief by the impugned judgements is an abstract objection. On careful scrutiny of preceding circumstances and the averments established by the parties, we are of the view that no exception is made out and the argument of Defendant Nos. 3 to 6 is accordingly rejected. We are not referring to the precedents on the point since the core consideration in any given case is the setting in which the parties agitate the issues and findings recorded by the court, finally resulting in the moulding of relief. We may hasten to add that the court of first instance, while exercising the discretion to mould the relief, juxtaposes the consideration with the established conditions of the original relief becoming inappropriate or shortening the litigation and enabling rendering complete justice between the parties. The scrutiny on the moulding of relief by the appellate court tests the exercise of discretion by the trial court, but not in all cases, sit in the very armchair of the court which moulded the relief and re-examine every detail unless prejudice and grave injustice are pointed out against the moulding of relief. In a further appeal on the moulding of relief, the examination by the second appellate court ought to be minimal and not unsettle the settled. In our considered view, the moulding of relief, in this case, is to shorten



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the litigation and not subject the Plaintiff Schedule to vagaries of certain and uncertain documents. We are in complete agreement with the findings recorded by the impugned judgements.”

17.The learned single Judge has rightly observed that the appellant, who has not questioned any of the earlier orders passed by this Court and also the sale deed that was executed in favour of the petitioner and the said Mr.Elango as early as 2006, cannot ask this Court to doubt the earlier orders passed on mere assumptions and surmises. Unless and until the appellant is able to substantially question the earlier orders passed by this Court and the sale deed executed in favour of the petitioner and the said Mr.Elango, the same cannot be disregarded in a collateral proceeding, when this Court is only testing the impugned order passed by the District Revenue Officer whereby the order passed by the Revenue Divisional Officer was confirmed.

18.The view taken by the learned single Judge that all the civil disputes have come to an end after the dismissal of the civil appeal by the Hon'ble Supreme Court and hence, the natural consequence would be to restore the patta issued in the name of the said late Mrs.Padmini Chandrasekaran, calls for no interference.

19.Based on C.M.P.No.29005 of 2024 in O.S.A.No.60 of 1959, we have



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perused the original records and the true copies of the orders of this Court as stated supra are available. The claim made by the appellant in CMP.No.29005 of 2024 is vexatious and the appellant has raised serious doubts questioning the sale made under Court auction and questioned the genuineness of the orders passed by this Court after an unreasonably long period of time without any basis. Therefore, for filing the said Miscellaneous Petition, without any material, Rs.1,00,000/- is imposed on the appellant as cost.

20.In fine, the Writ Appeal is dismissed. The order of the learned single Judge dated 08.04.2025 passed in WP No.35224 of 2024 is hereby confirmed. Consequently, CMP.No.29005 of 2024 is dismissed with cost of Rs.1,00,000/- (Rupees one lakh only) on the appellant, the said amount shall be paid to the Tamil Nadu State Legal Services Authority and other connected Miscellaneous Petitions are closed.

(A.S.M.,J)

(N.S.,J)

29.08.2025

Index: Yes/No

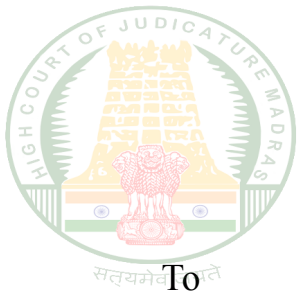
Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

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1. Francis George, S/o. Late. P.C. George,
Flat No.5, Ashirwad Apartments, 5/9,
Akbarabad 2nd Street, Kodambakkam, Chennai 600 024.

2. The District Revenue Officer
Chennai District, 4th Floor,
Chennai Collectorate, Chennai 1.

3. The Revenue Divisional Officer
(Chennai South) Guindy, Chennai 600032.

4. The Tahsildar, Velachery Taluk Office,
Seva Nagar, 1st Street, Soni Nagar,
Periyar Nagar Extension, Velachery, Chennai 042.

5. A. Baskar, S/o. Late. Appapillai Chettiyar,
No.10, Draupadi Amman Koil Street, Pillaichavadi Post,
Villupuram 605041.

6. B. Saroja, W/o. A. Basker,
No.10, Draupadi Amman Koil Street,
Pillaichavadi Post, Villupuram 605 041.

7. N. Selvaradjalou Chetty Trust
Rep by its Chairman, S. Kalyanam,
No.21, (Old No.10), 1st Floor,
Armenian Street, Chennai 600 001.

8. J. Ganapatha, S/o. Jugrajii,
D.No.35, Varada Muthiappan Street,
Chennai 1.

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and
N.SENTHILKUMAR J.
sai

Pre-delivery Judgment made in
WA No. 1826 of 2025
and
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29005 of 2024

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