



W.P.No.23635 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.07.2025

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.23635 of 2025

and

W.M.P.No.26589 of 2025

S.Palanimuthu,
S/o.Sengamalai

... Petitioner

Vs.

1.The District Collector,
District Collectorate,
Salem District – 636 001.

2.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Attur Subdivision,
Salem District.

3.The Tahsildar,
Attur Taluk,
Salem District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Mandamus, directing the respondents to update and upload the subdivision of the land an extent of 1.05.0 Ha (Acre 2.60 Cents) in Survey No.18/5 in Ammampalayam Village, Attur Taluk, Salem District in the name of the petitioner as per the D-Card Patta No.1420/AM/79 dated 18.12.1969



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by the Special Tahsildar, based on the petitioner's representations dated 15.10.2024 and 03.05.2025 made to the respondents.

For Petitioner : Mr.S.Sathia Chandran

For Respondents : Mr.A.Selvendran
Special Government Pleader

ORDER

By consent of learned counsel on both sides, this writ petition is taken up for final disposal at the admission stage itself.

2. The present writ petition is filed for a writ of mandamus, to direct the respondents to update and upload the subdivision of the land comprised in S.No.18/5 in Ammampalayam Village, Attur Taluk, Salem District in the name of the petitioner as per D-Card Patta bearing Patta No.1420/AM/79 dated 18.12.1969 issued by the Special Tahsildar in respect of the land measuring an extent of 1.05.0 Ha (Acre 2.60 Cents).

3. It is submitted by the learned counsel for the petitioner that the petitioner is an agriculturalist and in possession of the land comprised in the subject survey number. It is stated that originally the land belonged to the Government. In view of his continued cultivation, petitioner was assigned with D-Card Patta bearing



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Patta No.1420/AM/79 dated 18.12.1969 by the Special Tahsildar vide proceedings dated 20.01.1970, by subdividing S.No.18/2 into S.No.18/5, after conducting inquiry. While so, it is stated that some time in November 2023, the revenue officials had attempted to evict the petitioner stating that the subject property comprised in S.No.18/5, which is in possession of the petitioner was in fact odai poramboke (water body) and also that the petitioner's possession is illegal.

3.1. It is stated that the petitioner produced the D-Card Patta before the appropriate authority, which was not accepted by the appropriate authority. The petitioner was thus constrained to approach the Principal District Munsif Court at Attur by filing Suit in O.S.No.267 of 2023 with a prayer for permanent injunction to restrain the respondents and other authorities from interfering with the peaceful possession and enjoyment of the subject property.

4. At the outset, the learned Special Government Pleader for the respondents would submit that there is no interim injunction operating in favour of the petitioner. It was further stated that the suit itself is not maintainable inasmuch as no suit would lie over water body.



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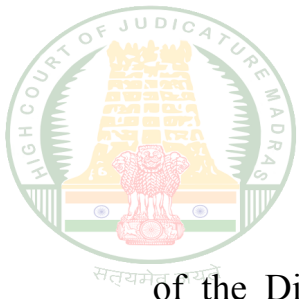
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5. I find that this is the fourth round of litigation before this Court. The petitioner earlier had filed a writ petition in W.P.No.30337 of 2024 with a prayer for a writ of mandamus, to direct the first to third respondents therein to pass orders on the representation dated 31.08.2024 by directing the fourth respondent therein to conduct an inquiry regarding the land in S.No.18/5 as to whether it is tharisu land or odai (lake).

6. The Division Bench of this Court vide order dated 09.10.2024, directed the third respondent herein to conduct an inquiry and if it is found that the petitioner is an encroacher and the land being odai (lake), then the respondents are at liberty to take further action in accordance with law. Relevant portion of the order is extracted hereunder:-

“5. Accordingly, the fourth respondent is directed to conduct enquiry/survey within a period of four weeks from the date of receipt of a copy of this order and if it is found that the petitioner is an encroacher, the lands being Odai lake lands, then the respondents shall be at liberty to take further action in accordance with law. The writ petition stands disposed of accordingly. Consequently, W.M.P.No.33033 of 2024 is closed. No costs.”

7. It is stated that no orders have been passed yet pursuant to the above order



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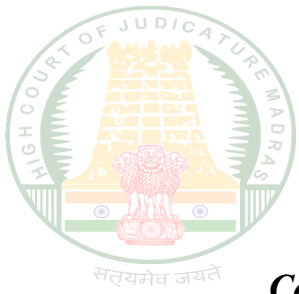
of the Division Bench of this Court. The petitioner also filed one more writ petition in W.P.No.18389 of 2025 wherein the Division Bench of this Court vide order dated 14.05.2025, while considering the prayer of the petitioner for a writ of mandamus, directed the fourth respondent therein to follow the principles of natural justice and give opportunity to the petitioner before following eviction procedure of the petitioner's agriculture land in S.No.18/5 situated at Ammapalaiyam Village, Attur Taluk, Salem District and to pass order based on the petitioner's representation dated 03.05.2025. Further, after recording the submission of the learned Government Advocate that the subject land appears to be a water body, the Division Bench of this Court observed that it does not want to go into the factual aspect and further it was observed that since the petitioner seems to be in possession of the land, the authorities should follow the due process of law. Relevant portion of the order is extracted hereunder:-

“2. The petitioner claims that land in S.No.18/5, Ammapalayam Village, Attur Taluk is his assigned land.

3. The learned Government Advocate states that it appears to be a water body.

4. We do not want to go into this factual aspect. Since the petitioner seems to be in possession of the land, the authorities shall follow due process of law before dispossessing him.

The writ petition is disposed of accordingly. No costs.



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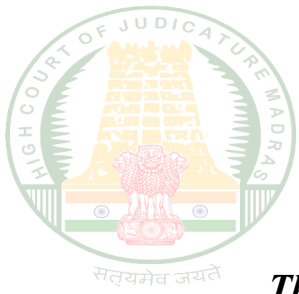
Consequently, the connected writ miscellaneous petition is closed.”

8. Thereafter, one more writ petition came to be filed by one Arumugam in W.P.No.20271 of 2025, with a prayer for a writ of mandamus, to remove all encroachments made by the private respondents in the light of G.O.Ms.No.64 dated 08.02.2022 after conducting an inquiry.

9. Though the petitioner was not arrayed as a party, the petitioner was *suo motu* impleaded by the Division Bench of this Court vide order dated 06.06.2025. The Division Bench of this Court, after recording the previous orders passed by this Court, observed that the official respondents shall proceed under the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007, keeping in view of the order of the Full Bench of this Court. Relevant portion of the order is extracted hereunder:-

“13. For the sake of specificity, we clarify that instant order and aforementioned three orders can be read harmoniously and the official respondents shall now read all four orders (instant order and aforereferred three orders) harmoniously while proceeding further under Tanks Act vide T.K.Shanmugam principle put in place by Hon'ble Full Bench.

14. Captioned WP is disposed of in the aforesaid manner.



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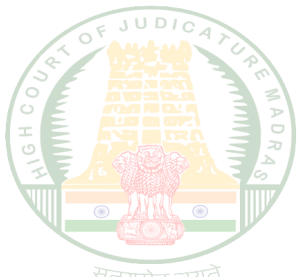
There shall be no order as to costs."

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10. It is the case of the petitioner that the subject land in S.No.18/5 is not odai (lake) but in fact, tharisu land in respect of which D-Card Patta has been issued in his favour. Despite repeated reminders, the respondents have not examined the nature of the land before proceeding with the process of eviction.

11. At this stage, the learned Special Government Pleader for the respondents would submit that the petitioner has already suffered two orders before the Division Bench of this Court wherein, there is a direction to evict the petitioner if he is found to be an encroacher. He would submit that the petitioner may appear for an inquiry on 18.07.2025 before the second respondent and he may produce any material that would support his case that the subject land comprised in S.No.18/5 is not odai (lake) but tharisu land so that the petitioner is not an encroacher.

12. The learned Special Government Pleader for the respondents would further submit that the inquiry would be completed on 18.07.2025 and if the petitioner is found to be an encroacher, he would be evicted by following due



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process of law.

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13. The submission of the learned Special Government Pleader for the respondents stands recorded.

14. This writ petition, is thus, disposed of with a direction to the second respondent to conduct an inquiry on 18.07.2025 regarding the nature of the subject land. It is made clear that if the subject land comprised in S.No.18/5 is odai, the petitioner shall be evicted after following due process of law, if on the other hand, the subject property is found to be not odai (lake) but tharisu, appropriate orders shall be passed by the respondents in accordance with law after affording an opportunity of hearing to the petitioner. No costs. Connected miscellaneous petition is closed.

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Speaking (or) Non Speaking Order
Neutral Citation : Yes / No

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MOHAMMED SHAFFIQ, J.



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