



WEB COPY

WP.No.35224 of 2024

In the High Court of Judicature at Madras

Reserved on 02.4.2025	Delivered on : 08.4.2025
---------------------------------	------------------------------------

Coram :

The Honourable Mr.Justice N.ANAND VENKATESH

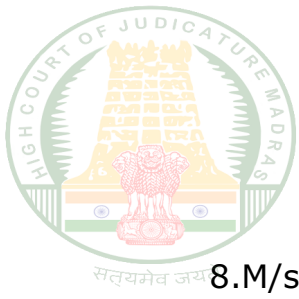
Writ Petition No.35224 of 2024 &
& WMP.Nos.38133 & 38135 of 2024

Mr.Francis George

Vs

...Petitioner

- 1.The District Revenue Officer,
Chennai District, 4th Floor,
Collectorate of Chennai,
Chennai-1.
- 2.The Revenue Divisional Officer,
(Chennai South), Guindy,
Chennai-32.
- 3.The Tahsildar, Velachery Taluk
Office, Seva Nagar 1st Street,
Soni Nagar, Periyar Nagar
Extension, Velachery,
Chennai-42.
- 4.Mr.A.Baskar
- 5.Mrs.B.Saroja
- 6.Mr.S.Sarvothaman
- 7.Mrs.Sathiya (a) J.S.Sathiya
(deceased)



WP.No.35224 of 2024

WEB COPY

8.M/s.Selvaradjalou Chetty
Trust, rep.by its Chairman,
Mr.S.Kalyanam, Chennai-1.

9.Mr.J.Ganapatha

**(R9 impleaded vide order dated
08.4.2025 in WMP.No.10019
of 2025 by NAVJ)**

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the 1st respondent culminating in the order dated 27.8.2024 bearing File No.Che.Mu.No.J2/1647954/2023 passed by the 1st respondent, quash the same and consequently restore the patta in the name of Mrs.Padmini Chandrasekaran, in whose name the patta stood.

For Petitioner	:	Mr.Rajnish Pathiyil
For R1 to R3	:	Mr.A.Selvendran, SGP
For R4 & R5	:	Mr.S.T.Raja
For R6	:	Mrs.Hema Sampath, SC for Mr.A.D.Balasubramaniam
R7	:	deceased
R8	:	vacated
For R9	:	Mr.S.Hemanand



WP.No.35224 of 2024

ORDER

WEB COPY

This writ petition has been filed challenging the proceedings dated 27.8.2024 issued by the first respondent and for a consequential direction to the official respondents to restore the patta in the name of one Mrs.Padmini Chandrasekaran with respect to the property bearing block No.55, New S.No.287, Old S.No.170/2 measuring 0.61 cents situated at Thiruvanmiyur Village, Velacherry Taluk, Chennai District.

2. Heard the learned counsel for the petitioner and the learned counsel appearing for the contesting respondents.

3. The case of the petitioner is as follows :

(i) The petitioner and one Mr.Elango are the absolute owners of the subject property. It was purchased vide sale deed dated 29.12.2006 registered as doc.No.10030 of 2006 on the file of the Joint Sub-Registrar-I, South Chennai, Saidapet. An attempt was made to illegally grab the subject property on the strength of a Will dated 20.5.1980, which was allegedly executed by the said late Mrs.Padmini Chandrasekaran bequeathing the subject property in favour of the 8th respondent trust.

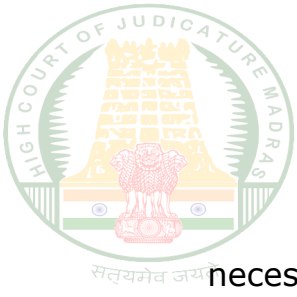


WP.No.35224 of 2024

WEB COPY

(ii) Thereafter, the original petition in O.P.No.382 of 2008 was filed by the 8th respondent trust represented by the fourth respondent, claiming to be the sole trustee, before this Court for the grant of probate based on the Will dated 20.5.1980. On coming to know of the same, one of the trustees of the 8th respondent trust - Dr.H.B.N.Shetty filed a caveat and objected for the grant of probate. In view of the same, the said original petition was converted into a suit in T.O.S.No.42 of 2008.

(iii) The said Dr.H.B.N.Shetty also filed A.No.2289 of 2012 seeking to dismiss the said suit. The said application was allowed on 31.7.2012 thereby the said suit was dismissed. Aggrieved by the dismissal of the said suit, the 8th respondent trust represented by the fourth respondent filed an appeal in O.S.A.No.91 of 2013 before this Court and it was ultimately dismissed as withdrawn by judgment dated 06.3.2017. That being so, the fourth respondent executed a settlement deed dated 02.11.2009 registered as doc.No.5452 of 2009 on the file of the Joint I Sub-Registrar, South Chennai in favour of his wife - the fifth respondent as if the probate has been granted for the Will dated 20.5.1980. On the strength of the said settlement deed dated 02.11.2009, the patta was also issued in her favour and



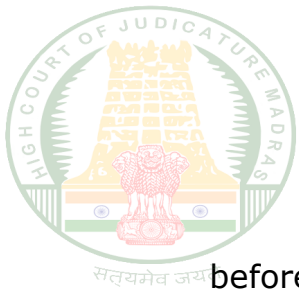
WP.No.35224 of 2024

WEB COPY

necessary entries were made in the permanent land register by the third respondent.

(iv) The petitioner came to know about the same when, on 27.3.2023, a large number of persons attempted to trespass into the subject property claiming that the patta was issued in favour of the fifth respondent. He also filed an appeal dated 05.4.2023 before the second respondent under Section 12 of the Tamil Nadu Patta Passbook Act to cancel the patta issued in favour of the fifth respondent. However, the second respondent, vide proceedings dated 02.12.2023, rejected the same. Aggrieved by the said order passed by the second respondent, a revision dated 26.12.2023 was filed by the petitioner before the first respondent, who passed the impugned order dated 27.8.2024 directing the parties to agitate their dispute before the competent Civil Court and refused to cancel the patta issued in favour of the fifth respondent. Aggrieved by that, the above writ petition has been filed before this Court.

4. The first respondent filed a counter affidavit wherein she took a stand that several civil litigations are pending between the parties and that therefore, the parties were directed to work out their remedy



WP.No.35224 of 2024

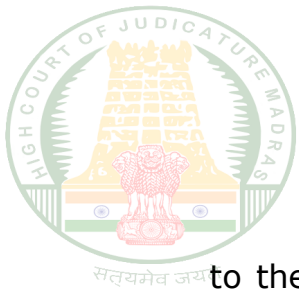
WEB COPY

before the Civil Court. Accordingly, she supported the impugned order passed on 27.8.2024.

5. Respondents 4 and 5 filed a counter wherein they took a stand that they are the owners of the subject property, that they were not aware about the previous litigations between the parties, that the patta was granted in favour of the fifth respondent pursuant to the settlement deed dated 02.11.2009 executed in her favour and that since the parties are agitating their rights before the Civil Court, the Revenue Authorities cannot parallelly conduct an inquiry and cancel the patta issued in favour of the fifth respondent. They ultimately sought for dismissal of this writ petition.

6. The sixth respondent filed a counter affidavit wherein he took the following stand :

(i) The title that is claimed by the petitioner by virtue of the earlier proceedings, which had taken place before this Court, is highly questionable and none of the original records is available to verify the genuineness of the orders that are relied upon by the petitioner. Already, several petitions were moved before the Registry of this Court



WP.No.35224 of 2024

WEB COPY

to the effect that fraud had been played in the name of court auction and subsequently, C.M.P.No.17284 of 2023 in O.S.A.No.60 of 1959 was filed by the sixth respondent to discharge the security bond executed by his father, in which, on 12.12.2023, notice was taken on the side of the Registrar General of this Court and a direction was given by a Division Bench of this Court to file a status report.

(ii) Pursuant to that, the status report dated 02.2.2024 was filed and it proved that the auction sale proceedings was a fraud played upon the Court. In the meantime, the petitioner filed a petition in CMP. No.1264 of 2025 to implead himself in CMP.No.29005 of 2024 filed for discharge of the security bond and it was allowed by a Division Bench of this Court on 13.2.2025.

(iii) Thus, the sixth respondent has independently claimed a right over the subject property and questioned the various proceedings and orders passed by this Court alleging that the sale deed executed in favour of the petitioner and another is a fabricated document and that it will not bind the sixth respondent. Ultimately, the sixth respondent sought for dismissal of this writ petition.



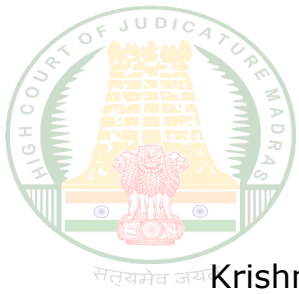
WP.No.35224 of 2024

WEB COPY

7. This Court has carefully considered the submissions of the learned counsel appearing for the rival parties and perused the materials available on record and more particularly the impugned order.

8. Initially, the said Mrs.Padmini Chandrasekaran claimed right over the subject property by virtue of a court auction sale, which resulted in the execution of the sale deed in her favour on 14.9.1963 by one Smt.Jayalakshmi Ammal and four others represented by the Advocate Commissioner - Mr.S.S.Ramachandra Iyer, who was also the power agent. This sale deed was registered as doc.No.3075 of 1963 on the file of the Sub-Registrar, Saidapet. Patta was also issued in the name of the said Mrs.Padmini Chandrasekaran in patta No.65. The deed of trust dated 11.11.1972 came to be executed by the said Mrs.Padmini Chandrasekaran and it was registered as doc.No.252 of 1973 on the file of the Sub-Registrar, Pondicherry.

9. Later, the said Mrs.Padmini Chandrasekaran executed a Will dated 30.9.1975 bequeathing her properties in favour of the trust. She also appointed (i) the said Dr.H.B.N.Shetty, retired IAS (ii) Mr.R.



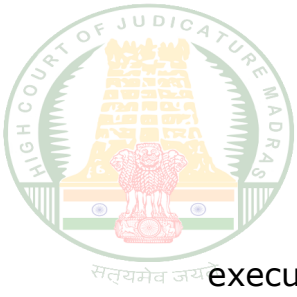
WP.No.35224 of 2024

WEB COPY

Krishnamurthi, Senior Advocate (former Advocate General of this Court), (iii) Mr.N.C.Raghavachari, Senior Advocate; and (iv) Mr.M. Ramachandran Chettiar as trustees. Further, the said Mr.R.Krishnamurthi, Senior Advocate and the said Dr.H.B.N.Shetty, retired IAS were appointed as the executors of the Will. The said Mrs.Padmini Chandrasekaran died on 07.6.1980.

10. In the meantime, the son of the sixth respondent filed C.S.No.149 of 1980 based on the fabricated Will dated 20.5.1980, which was alleged to have been executed in favour of the fourth respondent. The said suit in C.S.No.149 of 1980 was tried along with T.O.S.No.28 of 1982. Ultimately, the probate was granted in so far as the Will dated 30.9.1975 and C.S.No.149 of 1980 was dismissed by judgment dated 28.10.1995. This was further confirmed in the appeal in O.S.A.No.299 of 1996 vide judgment dated 20.3.2002.

11. The petitioner and the said Mr.Elango purchased the subject property through the sale deed dated 29.12.2006 registered as doc. 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



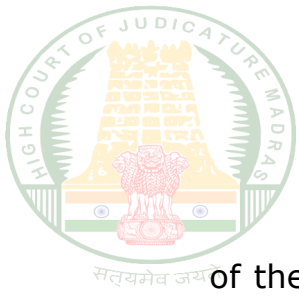
WP.No.35224 of 2024

WEB COPY

executor of the Will dated 30.9.1975 and by one Mr.N. Vinayagamoorthy, who was the confirming party in his capacity as the beneficiary of the Will. The sale deed itself came to be issued pursuant to the directions of this Court.

12. Later, at the instance of the 8th respondent trust, the District Collector, vide proceedings dated 12.1.2004, set aside the patta issued in the name of the sixth respondent and directed to restore the revenue records in the name of the said Mrs.Padmini Chandrasekaran. However, at the instance of filing revisions by one Mr.S.Gunasekaran and one Mr.R.Nithiyananthan, the Principal Secretary and Commissioner of Land Administration, Chennai-5, vide proceedings dated 11.2.2009, directed the parties to agitate their rights before the Civil Court and till such time the title dispute was decided, it was further directed that the revenue records should be maintained in the name of the said Mrs.Padmini Chandrasekaran.

13. It is quite apparent from the records that no probate was granted for the alleged Will dated 20.5.1980 whereas the fourth respondent executed the settlement deed dated 02.11.2009 in favour

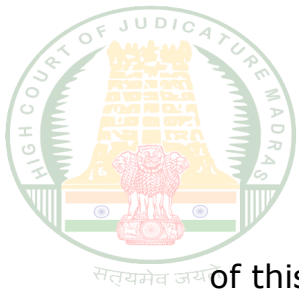


WP.No.35224 of 2024

WEB COPY

of the fifth respondent, who is none other than his wife, by projecting a case as if the probate was granted by this Court. In fact, the original petition filed seeking for probate was converted into a testamentary original suit and the order dated 31.7.2012 dismissing the said suit was challenged by the 8th respondent represented by the fourth respondent by filing O.S.A.No.91 of 2013, which was dismissed as withdrawn on 06.3.2017.

14. The right claimed by respondents 4 and 5 will no longer subsist in the light of the judgment of the Hon'ble Apex Court in the case of ***J.Ganapatha & Others Vs. M/s.N.Selvarajalou Chetty Trust rep.by its Trustees & Others [Civil Appeal No.4370 of 2025 arising out of S.L.P.(Civil) No.827 of 2017 dated 25.3.2025]***. The facts leading to filing of the said special leave appeal are that four sale deeds came to be executed on 24.2.1992 relating to the properties belonging to the 8th respondent trust and they were put to challenge in C.S.No.504 of 1998. It was decreed in favour of the said Dr.H.B.N.Shetty in his capacity as the executor of the Will by judgment dated 18.9.2006. Aggrieved by that O.S.A.No.230 of 2007 was filed by the purchasers and it was dismissed by a Division Bench



WP.No.35224 of 2024

of this Court vide judgment dated 08.9.2016.
WEB COPY

15. The judgment dated 08.9.2016 was taken on appeal by the purchasers to the Hon'ble Supreme Court in the case of **J.Ganapatha** wherein the following findings were rendered :

"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



WEB COPY



WP.No.35224 of 2024

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.

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



WEB COPY



WP.No.35224 of 2024

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 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



WEB COPY



WP.No.35224 of 2024

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



WEB COPY



WP.No.35224 of 2024

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 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



WEB COPY



WP.No.35224 of 2024

vis-à-vis the Plaint 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 Plaint 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 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



WEB COPY



WP.No.35224 of 2024

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



WEB COPY

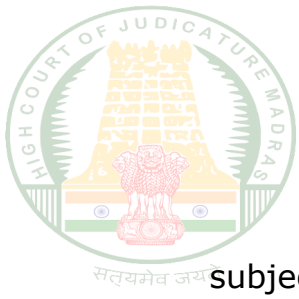


WP.No.35224 of 2024

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

16. On a careful perusal of the above extracted judgment, it can be seen that the right and title of the properties of the said Mrs. Padmini Chandrasekaran was confirmed and it was held that the claim made by the private respondents namely respondents 4 to 6 came to be rejected. In no uncertain terms, the Hon'ble Apex Court held that the private respondents, without even challenging the court auction sale and allowing the sale to remain intact, did not prove any semblance of right over the properties involved. Ultimately, the said civil appeal was dismissed with costs.

17. In the considered view of this Court, the title of the said Mrs.Padmini Chandrasekaran has not been assailed and the orders passed by this Court permitting the executor of the Will to sell the



WP.No.35224 of 2024

WEB COPY

subject property in favour of the petitioner and the said Mr.Elango have not been put to challenge. 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.

18. The title claimed by respondents 4 and 5 is totally unsustainable since they did not obtain any probate for the alleged Will dated 20.5.1980 and in the light of the judgment of the Hon'ble Apex Court, they cannot claim any semblance of right over the subject property. The sixth respondent, 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 sixth respondent



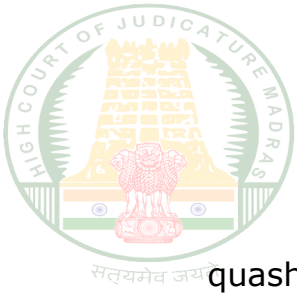
WP.No.35224 of 2024

WEB COPY

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 first respondent whereby the order passed by the second respondent was confirmed.

19. The impugned order was passed by the first respondent on the ground that there is a civil dispute pending between the parties. Now, all the civil disputes have come to an end after the dismissal of the civil appeal by the Hon'ble Supreme Court. Hence, the natural consequence would be to restore the patta issued in the name of the said late Mrs.Padmini Chandrasekaran. Once this is done, the petitioner can apply for the issuance of patta in the names of the petitioner and the said Mr.Elango based on the sale deed dated 29.12.2006.

20. In the result, the writ petition is allowed, the impugned proceedings of the first respondent dated 27.8.2024 and the proceedings of the second respondent dated 02.12.2023 are hereby



WP.No.35224 of 2024

WEB COPY

quashed. There shall be a direction to the third respondent to restore the patta in the name of the said late Mrs.Padmini Chandrasekaran and thereafter, the patta shall be issued in the names of the petitioner and the said Mr.Elango based on the registered sale deed dated 29.12.2006. This process shall be completed within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected WMPs are closed.

08.4.2025

Index : Yes
Neutral Citation : Yes

To

- 1.The District Revenue Officer,
Chennai District, 4th Floor,
Collectorate of Chennai,
Chennai-1.
- 2.The Revenue Divisional Officer,
(Chennai South), Guindy,
Chennai-32.
- 3.The Tahsildar, Velachery Taluk
Office, Seva Nagar 1st Street,
Soni Nagar, Periyar Nagar
Extension, Velachery,
Chennai-42.

RS



WEB COPY



WP.No.35224 of 2024

N.ANAND VENKATESH,J

RS

W.P.No.35224 of 2024 &
WMP.Nos.38133 & 38135
of 2024

08.4.2025