



W.P.No.38797 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.01.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No. 38797 of 2024

B.George Arogiyaraj

...Petitioner

Vs.

1.The District Collector
Salem District,
Salem – I.

2.The Revenue Divisional Officer
O/o Revenue Divisional Office,
Salem - 5

3.The Thasildar
Salem West Taluk,
Salem

4.J.Alexander

5.Annammal

...Respondents



W.P.No.38797 of 2024

WEB COPY

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 3rd respondent to conduct enquiry and submit his report before the 2nd respondent on the basis of the memo dated 22.07.2024 bearing No. O.Mu. No 2159 / 2024 / A1 issued by the 2nd respondent and consider the petitioner's representation dated 08.07.2024.

For Petitioner : Mr. G.Pavendhan

For Respondents : Mr. R.P.Murugan Raja
1 to 3 Government Advocate.

For Respondents : Mr. Murugesan Kokilavani
4 & 5

ORDER

The Writ Petition has been filed for the following relief:

“To direct the 3rd respondent to conduct enquiry and submit his report before the 2nd respondent on the basis of the memo dated 22.07.2024 bearing no. O. Mu.



WEB COPY



W.P.No.38797 of 2024

No 2159 / 2024 / A1 issued by the 2nd respondent and consider the petitioner's representation dated 08.07.2024.”

2. The petitioner has approached this Court seeking a mandamus to the 3rd respondent to conduct an enquiry and submit his report before the 2nd respondent on the basis of the memo dated 22.07.2024, issued by the 2nd respondent and thereafter consider the petitioner's representation dated 08.07.2024. The facts are briefly set out herein below.

3. The petitioner and the 4th respondent are grand sons of one Madalaimuthu Chettiar. He had seven children, four sons and three daughters, who are Paneerselvam, Balan, Jothiprakasam, Anthonysamy, Lurdhumary, Malorbaro Mary and Ronikamal.

4. The petitioner would contend that the said Madalaimuthu Chettiar had purchased the property under a sale deed dated 14.05.1941 and 22.12.1961. He had executed a registered “Will” dated 09.09.1974



in favour of his four sons, in respect of an extent of 6.99 Acres comprised in S.No.2/9 and 2/10, Pallapatti Village, Salem, bequeathing an equal share to all the four sons, i.e., each were entitled to 1.18 acres.

5. However, during his lifetime, the said Madalaimuthu Chettiar had sold portions of the property to several persons. While so, the 4th respondent and his mother filed a suit against the petitioner's father and others, for a permanent injunction restraining the defendants therein and their men from interfering with the peaceful possession and enjoyment of the property by the 4th respondent and his mother on the file of the Additional District Munsif, Salem, in O.S.No.308 of 1987. An ex parte decree was passed on 25.09.1992.

6. It is the contention of the petitioner that the revenue records stood in the name of Madalaimuthu Chettiar. On 13.05.1994, Madalaimuthu Chettiar and his brother executed a general power of attorney, in favour of the petitioner's father to enter into a sale agreement and deed on their behalf and the petitioner's father was in



W.P.No.38797 of 2024

possession and enjoyment of the property in question.

WEB COPY

7. Thereafter, the petitioner's grand father executed a “Will” dated 05.12.1996, in favour of the petitioner's father Balan, bequeathing properties on him and he passed away on 08.12.1996. Thereafter, the petitioner's father became owner of the property and was in possession of the same. The revenue records were mutated in his name and the property tax and house tax stood in his name.

8. The petitioner's father filed a suit in O.S.No.781 of 2006 against his sisters, the 4th respondent and his mother on the file of the Principal District Munsif, Salem, for a permanent injunction. This suit was dismissed on 09.04.2008. Thereafter, this was challenged in A.S.No.76 of 2008. By a Judgement dated 25.09.2008, the Additional Sub Judge, Salem, was pleased to allow the First Appeal and had held that the property in question was not a joint family property.

9. This Judgement and Decree was challenged by the 4th



respondent and his mother in S.A.No.257 of 2010, which is now pending before this Court. The 4th respondent did not possess any valid title or right to the property but however he and his mother had sold the property to several persons and had mutated revenue records in their name by using fraudulent certificates.

10. In these circumstances, the petitioner submitted a representation dated 08.07.2024 to respondents 1 and 2 to cancel the patta, adangal issued by the 3rd respondent in favour of the 4th and 5th respondents in S.No.26/5, Old No.2/9J P26/1 P, to an extent of 46 ares 82.5 sq.mts.,

11. This representation was forwarded by the 2nd respondent to the 3rd respondent, to conduct an enquiry and submit their report. However, no enquiry was conducted by the 3rd respondent. Therefore, the Writ Petition.

12. Heard the learned counsels on the either side and perused the



W.P.No.38797 of 2024

records.

WEB COPY

13. Considering the limited relief that is sought for, a mandamus is issued to the 3rd respondent to conduct an enquiry and submit a report to the 2nd respondent, within a period of 4 weeks from the date of receipt of a copy of this order and thereafter within a period of 4 weeks, an order shall be passed on the petitioner's representation dated 08.07.2024.

14. The Writ Petition is allowed. No costs.

03.01.2025

Index : Yes/No
Internet : Yes/No
kan

To

7/9



W.P.No.38797 of 2024

1.The District Collector
Salem District,
Salem – I.

2.The Revenue Divisional Officer
O/o Revenue Divisional Office,
Salem - 5

3.The Thasildar
Salem West Taluk,
Salem

P.T. ASHA, J.



WEB COPY



W.P.No.38797 of 2024

kan

W.P.No. 38797 of 2024

03.01.2025