



W.P.(MD)No.5729 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.03.2025

CORAM:

THE HONOURABLE MR JUSTICE P.B. BALAJI

W.P.(MD)No.5729 of 2025
and WMP(MD) No.4191 of 2025

1. Fathima Mary
2. Daisy
3. Jayaseelan
4. Josephin Santhi

... Petitioners

Vs

1. The District Collector,
Pudukkottai District.
2. The Revenue Divisional Officer,
Illupur, Pudukkottai District.
3. The Tahsildar,
Viralimalai Taluk, Viralimalai, Pudukkottai District.
4. A. Savarimuthu

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 and 3 the effect transfer of patta in petitioner's names.

For Petitioners : Mr.M.Jahangir Baba

For Respondent : Ms.S.Jeyapriya (R1-R3)
Government Advocate



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ORDER

The petitioners have filed the present writ petition seeking transfer of patta in the petitioners' name pursuant to decree for Specific Performance passed by the Sub Court, Keeranur and confirmed up to the Hon'ble Supreme Court.

2.Considering the limited scope of the relief sought for by the petitioners with the consent of learned counsel on either sides, this writ petition is taken up for final disposal.

3.The petitioners have only sought for inclusion of their names in the joint patta based on the sale deed executed by the Court in their favour on the default committed by the defendant/Judgment debtor to honour the Specific Performance decree.

4.The learned counsel for the petitioners submitted that the title has been duly transferred in the name of the petitioners pursuant to the registered sale deed executed by the Court, representing the Judgment



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Debtor, who refused to come forward to comply with the decree for Specific Performance. The learned counsel for the petitioners would also take me through the various orders passed up to Hon'ble Supreme Court as well as the execution petition filed and the consequent sale deed executed and registered in the name of the petitioners. The petitioners have made a request for inclusion of their names in the joint patta and also issued a lawyer notice on 18.10.2024. The petitioners therefore, seek for issuance of writ of mandamus to direct the respondents 1 to 3 to effect transfer of patta in the petitioners' name.

5.The learned Government Advocate appearing for the respondents on written instructions would submit that there is a pending execution petition in EP No. 2 of 2024 before the Sub Court, Keeranur and only in view of the said pendency of execution petition, patta application of the petitioners has not been considered.

6.The learned counsel for the petitioners also annexed the relevant copies of the execution petition.



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7. Heard the learned counsel on either side and perused the materials available on record.

8. It is seen from the said papers that one Arockia John has preferred the execution petition against the son of the fourth respondent and there is also an attachment over the subject property. In view of the said attachment, the Authorities are reluctant to consider the mutation of patta in the name of the petitioners.

9. Considering the submissions advanced by either side, it is a straight law that attachment of immovable property runs with the property and there can be no impediment for transfer of property even when there is an attachment order is in force. It is only that the person taking beneficial interest shall also take the risk of the attachment of immovable property. The petitioners have succeeded up to the Hon'ble Supreme Court, thereafter, registered sale deed, has also been duly executed in their favour. Based on the said sale deed, the petitioners have certainly entitled for mutation of patta. Citing pendency of execution petition filed by a third party against the son of the fourth respondent,



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who suffered the decree for performance cannot be a reason to deny mutation of records in favour of the petitioners.

10.Considering that the petitioners seek only for issuance of writ of mandamus, this writ petition is disposed of with a direction to the third respondent to consider the petitioners' representation for mutation of patta in their names, pursuant to the sale deed executed by the Court in furtherance of decree for Specific Performance, which attained finality with the dismissal of SLP before the Hon'ble Supreme Court. The order should be passed on merits and in accordance with law without denying the petitioners' request on the ground of pendency of EP 2 of 2024. This exercise shall be completed within a period of eight weeks from the date of receipt of copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

NCC : Yes / No
Index : Yes / No
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P.B. BALAJI, J.

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