



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.01.2025

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THE HONOURABLE MRS. JUSTICE N.MALA

W.P.(MD).No.2500 of 2025
and WMP(MD)No.1756 of 2025

Abdul Rauf

...Petitioner

Vs

The Thasildhar,

Taluk Office,

Mudukulathur (23) Taluk,

Ramanathapuram (27) District.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records in respect of rejected order passed by the respondent in patta transfer application No. 2024/0103/27/190065 dated 07.08.2024 and quash the same and consequently to direct the Respondent to issue Patta bearing Survey No.251/3 to an extent of 0.38.0 Hec., bearing Survey No.398.2 to an extent of 1.09.5 Hec bearing Survey No.399/1, to an extent of 0.90.5 Hec., in Athangkothakudi Village, Mudukulathur Taluk, Ramanathapuram District.

For Petitioner : Mr.J.M.Hassanul Bazari

For Respondent : Mr.A.Kannan,

Additional Government Pleader

**ORDER**

The writ petition is filed for a writ of Certiorarified Mandamus, to call for the rejection order of the respondent dated 07.08.2024, rejecting the petitioner's application for transfer of patta and consequently, to direct the respondent to issue patta bearing Survey No.251/3 to an extent of 0.38.0 Hec., bearing Survey No. 398.2 to an extent of 1.09.5 Hec bearing Survey No.399/1, to an extent of 0.90.5 Hec., in Athangkothakudi Village, Mudukulathur Taluk, Ramanathapuram District.

2. It is the petitioner's case that the subject property belonged to the petitioner's mother-in-law, Mohamed Anzar Ammal and that, after the demise of the said Mohamed Anzar Ammal, the property devolved on his wife Mohamed Mariyam Purani, by intestate succession. The petitioner states that his wife, Mohamed Mariyam Purani, obtained patta for Survey No.251/3 and patta no.1046 for Survey No.398/2 and 399/1. The petitioner states that his wife orally gifted the subject properties to him and in order to strengthen the oral gift, she executed a declaration of acceptance of oral gift on 29.07.2021, before notary public. On the strength of the oral gift and the declaration of acceptance, the petitioner approached the respondent for transfer of patta vide patta transfer application No. 133271428835977 and application No.2024/0103/27/190065 dated 25.07.2024.



The petitioner states that to his shock and dismay, the said application was rejected by the respondent by a cryptic order, stating that change of title based on unregistered deed document could not be accepted. Aggrieved by the impugned rejection order, the petitioner filed the above writ petition for the aforesaid relief.

3. The learned counsel for the petitioner submitted that the superficial rejection order, without understanding the Mohammedan Law on oral gifts was invalid and unsustainable. The learned counsel submitted that the impugned rejection order was against the Mohammedan Law and the provisions of the Transfer of Property Act. The learned counsel therefore prayed that the writ petition be allowed.

4. I heard both the learned counsels and perused the materials placed on record.

5. From the documents filed, it is seen that the petitioner submitted an online application for transfer of patta on 25.07.2024, enclosing 7 documents. The respondent rejected the said application, on the sole ground that patta could not be transferred on the basis of unregistered document. Under the Patta Pass Book Act, 1983, the respondent is bound to give an opportunity of hearing to the petitioner to



make representation either orally or in writing. Even the rules contemplate an enquiry on receipt of the application for transfer of patta.

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6. From the impugned order, it is clear that the procedure provided in the Act and Rules has not been followed and therefore, the impugned order dated 07.08.2024, is set aside. The matter is remanded to the respondent for fresh consideration. The respondent is directed to consider the matter afresh and pass orders on merits and in accordance with provisions of the Patta Pass Book Act, 1983 and Rules, within a period of twelve weeks, from the date of receipt of a copy of this order.

In fine, the writ petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

NCC:Yes/No

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Index:Yes/No

Speaking Order:Yes/No

CM/dsn

To

The Thasildhar,

Taluk Office,

Mudukulathur (23) Taluk,

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Ramanathapuram (27) District.

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N.MALA,J.

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