



W.P.(MD)No.2599 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 19.03.2025

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THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.P.(MD)No.2599 of 2021

and

W.M.P(MD)Nos.2134, 2135 & 3508 of 2021

1.Mahalingam (Died)

2.Poopathy

3.Aruna

4.Ambika

5.Saraniya

6.Parthosarathy

7.Sumathi

... Petitioners

*(P2 to P7 are impleaded vide Court order, dated 24.06.2024 in
W.M.P(MD)No.11440 of 2024)*

Vs.

1.The Commissioner,
Land Administration,
Chepauk,
Chennai.

2.The District Collector,
Thoothukudi District,
Thoothukudi.



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3. The Additional District Collector,
Thoothukudi District,
Thoothukudi.

4. The District Revenue Officer,
Thoothukudi District,
Thoothukudi.

5. The Revenue Divisional Officer,
Tiruchendur,
Thoothukudi District.

6. The Tahsildar,
Tiruchendur Taluk,
Tiruchendur.

7. The Special Tahsildar,
Adidraavidar Welfare Department,
Lakshmipuram
Rathinapurai,
Kaayalpattinam Post,
Tiruchendur Taluk,
Thoothukudi District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the 3rd respondent in his proceeding Na.Ka.T6/23441/2020, dated 23-10-2020 and quash the same as illegal and consequently pass an order directing the respondents not to make any attempt to alter the nature and character of the land in survey No.560/2C at Ranimaharajapuram, Kandhasamipuram Village, Tiruchendur Taluk, Thoothukudi District either by evicting the petitioner or in any manner.



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For Petitioner : Mr. S.R.Anbarasu

For Respondents : Mr.M.Lingadurai
Special Government Pleader

ORDER

The petitioner challenges the order of the 3rd respondent in Na.Ka.T6/23441/2020, dated 23-10-2020.

2. Heard the learned counsel for the petitioners and the learned Special Government Pleader for the respondents.

3. The case of the petitioners is that the petitioners claim to be in physical possession and enjoyment of the portions of Survey No.560/2C and patta was also issued to the petitioners' father (petitioner who originally filed this writ petition and passed away during the pendency of the writ petition). The grievance of the petitioners is that though a writ petition was filed as if the 1st petitioner was an encroacher, the writ petition was disposed of by the Hon'ble Division Bench of this Court in W.P(MD)No.6797 of 2011 holding that they were not encroachers and patta had been issued to the private respondents in the said writ petition which includes the 1st petitioner, namely Mahalingam. The learned counsel for the 1st petitioner would further submit that even thereafter,

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without affording an opportunity to the petitioners or conducting any proper enquiry, the impugned order has been passed by the 1st respondent, clearly violating the fundamental principles of natural justice.

4. However, the learned Special Government Pleader would submit that the case of the respondents is that while undertaking the exercise of Natham Settlement Survey, pattas were wrongly issued in the name of the private respondents and further, he would also point out that the name of the 1st petitioner, Mahalingam was not even found in the said patta, issued to only six persons, that too under mistake. He would further submit that as per G.O.Ms.No.1971 Revenue (SS.II) Department, dated 14.10.1988, the Collector/District Revenue Officer has power to correct such mistakes and in exercise of such power, they have duly corrected the error. Therefore, there is no infirmity in the impugned order. Hence, he seek for dismissal of the writ petition.

5. Be that as it may, without going into the merits of the order and the challenge in the present writ petition, it is seen that, the Hon'ble Division Bench of this Court recognising the possessory right of the 1st petitioner herein, who



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was the 4th respondent in W.P(MD)No.6797 of 2011 before the Hon'ble

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Division Bench of this Court, no notice was issued to the petitioner and his objections were not heard before the impugned order came to be passed.

Therefore, on this limited ground, the impugned order cannot be sustained.

6. Accordingly, the order impugned in the writ petition is set aside and the writ petition is allowed and the matter is remitted to the 3rd respondent to conduct fresh enquiry and pass final orders on merits and in accordance with law, after hearing the petitioners, namely the legal heirs of Mahalingam. The said exercise shall be completed within a period of twelve (12) weeks from the date of receipt of copy of this order. If the petitioners are already in possession pursuant to the interim orders of this Court, the possession of the petitioners shall not be disturbed by the authorities and similarly, the petitioners also shall not encumber or alienate the subject property till final orders are passed. No costs. Consequently, connected Miscellaneous Petitions are closed.

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NCC:yes/no
Index:yes/no
Internet:yes/no
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P.B.BALAJI, J.

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