



W.P.(MD) No.4119 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.P.(MD) No.4119 of 2025

Periyammal

... Petitioner

vs.

1.The District Collector,
Sivagangai District.

2.The Tahsildar,
Singampunari Taluk,
Sivagangai District.

3.The Taluk Surveyor,
Singampunari,
Sivagangai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the third respondent to survey the land and fix the boundaries and further directing the respondents 1 and 2 herein to issue patta or mutating the revenue records in favour of the petitioner in respect of S.Nos.128/1 and 45/1 situated at M.Kovilpatti Village, Singampunari Taluk, Sivagangai District and consider the representation dated 02.01.2025.



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For Petitioner : Mr.K.Muraleedharan

For Respondents : Mr.M.Lingadurai
Special Government Pleader

ORDER

The petitioner has filed the present writ petition seeking issuance of a Writ of Mandamus to survey the lands, fix boundaries and also issue patta to the petitioner. The petitioner has sought for issuance of patta by making an application on 02.01.2025

2. Heard the learned counsel on either side.

3. The learned counsel for the petitioner would submit that the petitioner was constrained to move the competent civil Court in O.S.No.114 of 2000, namely, the District Munsif Court, Thirupathur. The suit was initially dismissed against the plaintiff, as against which, the plaintiff preferred A.S.No.36 of 2024 and the First Appellate Court, ie., the Sub Court, Sivagangai, reversed the Judgment and Decree of the trial Court and decreed the suit. The State challenged the Judgment and Decree of the First Appellate Court, preferred S.A.(MD)No.855 of 2025 before this Court. However, by Judgment and Decree dated 18.11.2024,



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the second appeal was dismissed, holding that the writ petitioner's possession for thirty years had been established by the petitioner. Based on the said Judgment and Decree, the petitioner now seeks for issuance of patta after survey to be conducted.

4.The learned Special Government Pleader would submit that no doubt the Judgment and Decree of this Court became final and the State has not taken up the matter to the Hon'ble Supreme Court of India. However, the revenue records reflect S.No.128/1, the Government poromboke kalam and S.No.45/1 as 'kanmai,' namely, a water body and therefore, he would submit that when this Court had also specifically found that the petitioner had failed to establish his title over the subject lands, patta cannot be issued to the petitioner. He would, therefore, seek for dismissal of the writ petition.

5.The learned counsel for the petitioner, however, submits that in the absence of survey, the third parties are attempting to interfere with the petitioner's peaceful possession and enjoyment, which has been rightly protected by this Court in S.A.(MD)No.855 of 2005 by Judgment and Decree dated 18.11.2024.



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WEB COPY 6.I have considered the submissions advanced by the learned counsel on either side.

7.No doubt the petitioner's possession has been protected and permanent injunction has been granted and confirmed by this Court in the second appeal proceedings, the same has also become final. On going through the Judgement passed by this Court in the second appeal, it is clear that the relief of permanent injunction has been granted only on the strength of the petitioner's having proved possession and enjoyment of the subject lands for over 30 years. In fact, this Court also observed that even a trespasser's possession has to be protected and he can be dispossessed only in a manner known to law. Further, this Court has also held that the petitioner had failed to prove his title, but only established the factum of physical possession. Therefore, in view of the categorical findings rendered by this Court, which are equally binding on the petitioner as well, the petitioner is not entitled to issuance of patta. However, at the same time, the request for survey cannot be rejected when, admittedly, his possession has been upheld by this Court in the second appeal proceedings.

8.At this juncture, the learned Special Government Pleader would submit that the Judgment of this Court in S.A(MD)No.855 of 2005 was pronounced



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recently and the State may still take a call on whether the same should be challenged before the Hon'ble Apex Court. Anyhow, that would not come in the way of survey being conducted even in the present situation on ground.

9. Therefore, the Writ Petition is partly allowed with a direction to the respondents 2 and 3 to conduct a survey of the petitioner's lands and fix the four boundaries. The said exercise shall be carried out within a period of eight weeks from the date of receipt of a copy of this order. No costs.

11.03.2025

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NCC: Yes/No

Index : Yes / No

Internet : Yes / No

To

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P.B.BALAJI, J.

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