



W.P.(MD) No.4526 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:20.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.P.(MD) No.4526 of 2025

Yemu Konar

... Petitioner

VS.

1.The Revenue Divisional Officer,
Tenkasi, Tenkasi District.

2.The Tahsildar,
Kadayanallur Taluk,
Tenkasi District.

3.Annalakshmi

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the respondents 1 and 2 to remove the name of the third respondent from the patta No.4485 in respect of S.No.80/2 to an extent of 48 cents of Chockampatti Village, Kadayanallur Taluk and to issue separate patta on the name of the petitioner for the punja land comprised in S.No. 80/2 to an extent of 48 cents situated at Chockampatti Village, Kadayanallur Taluk, Tenkasi District, within the time frame as fixed by this Court.

For Petitioner : Mr.S.Balamurugan

For Respondents : Mr.C.Satheesh
Government Advocate for R1 & R2



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ORDER

Considering the limited scope of the relief sought for in the writ petition, with the consent of the learned counsel on either side, the writ petition is taken up for final disposal at the stage of admission itself.

2.The petitioner seeks issuance of a Writ of Mandamus to direct the respondents 1 and 2 to remove the name of the third respondent and consequently issue patta in the name of the petitioner.

3.Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the official respondents 1 and 2.

4.The learned counsel for the petitioner submits that earlier, when the petitioner made an application for removing the name of the third respondent from the patta and issuing separate patta to the petitioner, the civil suit in O.S.No.369 of 2016 on the file of the Principal District Munsif Court, Tenkasi, was cited by the authorities and the petitioner was advised to await the final decision in the said suit. Thereafter, it is seen from the Judgement and Decree in



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O.S.No.369 of 2016 that the suit was decreed in favour of the writ petitioner herein on 31.01.2024, declaring that the petitioner is the absolute owner of the subject property. No doubt, an appeal has been preferred in A.S.No.87 of 2024 by the third respondent, which is pending before the Principal Sub Court, Tenkasi. The petitioner has made a categorical averment that there is no interim order of stay granted by the Appellate Court staying the Judgement and Decree in O.S.No. 369 of 2016. He would therefore submit that there is no impediment for the respondents 1 and 2 to remove the name of the third respondent and issue separate patta to the petitioner.

5.The learned Government Advocate appearing for the official respondents 1 and 2 would submit that only because of the pendency of the appeal, the authorities have not taken any further steps in the matter and he would therefore seeks for suitable directions to be issued in the writ petition.

6.Having considered the submissions advanced by the learned counsel on either side, considering the fact that the application for removal of the third respondent's name and for issuing patta in the petitioner's name was made by the petitioner and even the civil suit was filed only by the petitioner seeking to



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declare his right, title and interest in the subject property. After trial, the suit has been decreed in favour of the petitioner. Eventhough an appeal has been preferred by the third respondent, admittedly, there is no stay of operation against the decree passed in the suit. Therefore, there is no legal impediment for the respondents 1 and 2 to remove the name of the third respondent and consequently issue separate patta in the name of the writ petitioner in respect of S.No.80/2, measuring 48 cents in Chockampatti Village, Kadayanallur Taluk, Tenkasi District.

7.It is also noticed that in the earlier round of enquiry, the petitioner as well as the third respondent appeared and only thereafter, the petitoiner was advised to await the decision in the civil suit. Now that that suit has been decreed in favour of the petitioner, the first respondent shall conduct an enquiry and pass orders on the petitioner's application for removing the name of the third respondent and consequently issue separate patta to the petitioner after affording an opportunity by way of personal hearing to the petitioner as well as the third respondent. It is made clear that merely because the appeal suit is pending and as long as there is no interim order of stay, the first respondent may not refuse to pass final orders on the petitioner's application. The said exercise shall be completed within a period



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of eight weeks from the date of receipt of a copy of this order.

8. With the above directions, this Writ Petition is disposed of. No costs.

20.02.2025

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NCC: Yes/No

Index : Yes / No

Internet : Yes / No

To

1. The Revenue Divisional Officer,
Tenkasi, Tenkasi District.

2. The Tahsildar,
Kadayanallur Taluk,
Tenkasi District.



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P.B.BALAJI, J.

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