



W.P.(MD) No.4410 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.P.(MD) No.4410 of 2024

Inul Arifa

... Petitioner

vs.

1.The District Collector,
Office of the District Collector,
Ramanathapuram,
Ramanathapuram District.

2.The Tahsildar,
Office of the Tahsildar Office,
Keelakkarai,
Ramanathapuram District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the second respondent herein for issuance of patta to the petitioner land situated in S.Nos.128/6, 128/7 to an extent of 45 cents at Mayakulam Village, Ramanathapuram Taluk, Ramanathapuram District by considering the petitioner representation dated 25.01.2024 in accordance with law within the time stipulated by this Court.

For Petitioner : Mr.D.Balamuruga Pandi

For Respondents : Mr.S.Kameswaran
Government Advocate



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ORDER

The petitioner has filed the present writ petition seeking a direction to the second respondent to issue patta to the petitioner in respect of her property, to an extent of 45 cents, comprised in S.Nos.128/6 and 128/7 at Mayakulam Village, Ramanathapuram Taluk, Ramanathapuram District.

2.Heard the learned counsel on either side.

3.The learned counsel for the petitioner would submit that the petitioner approached the civil court, alleging that the Government is trying to encroach into the petitioner's property. The petitioner's father filed O.S.No.341 of 1990 on behalf of himself and Yusufsulaikka Ammal. The petitioner's father died on 05.01.1995 and subsequently, the suit came to be dismissed for non-prosecution on 06.04.1995. It is the specific contention of the petitioner that though the Government was contemplating implementation of a project for constructing cyclone homes in the petitioner's property. The said project was abandoned and the petitioner continued to be in physical possession and enjoyment of the said land. Subsequently, the State Government attempted to put up a hostel for



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students in the petitioner's land and at that point of time, the petitioner filed O.S.No.75 of 2005 along with other legal heirs seeking the relief of declaration and permanent injunction. The District Collector was arrayed as the defendant in the said suit. After contest, the suit was decreed in favour of the plaintiffs, including the writ petitioner herein. It is the specific averment of the petitioner that the said decree dated 20.04.2011 has attained finality and no appeal has been preferred therefrom by the first respondent.

4.The learned Government Advocate appearing for the respondents would submit that the lands in respect of which patta has been granted or classified as 'Nandavanam' even prior to UDR and continue to be classified as 'Nandavanam' even as on date. He would therefore submit that there is no feasibility of issuing patta to the petitioner as the lands have always been earmarked as Government poromboke.

5.I am unable to countenance the said submissions of the learned Government Advocate for the simple reason that when the suit had been filed by the land owners in O.S.No.75 of 2005 before the competent civil Court, the District Collector representing the State had vehemently contested the reliefs sought for by the plaintiffs. After elaborate trial, the suit was decreed in favour of



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WEB COPY the plaintiffs. If the defendant therein, namely, the first respondent herein was aggrieved by the said judgment and decree and if really the lands were only Government lands and classified as 'Nandavanam', then the first respondent ought to have challenged the judgement and decree by way of preferring a first appeal. Even in the counter affidavit filed by the second respondent, there is no mention that any appeal has been preferred and the authorities have called for detailed reports and advice regarding preferring an appeal. The present writ petition was filed more than a year back. At least when the writ petition was filed, the first respondent ought to have woken up and taken some steps to challenge the decree in O.S.No.75 of 2005. Despite passage of one year, till date, no steps have been taken and even in the counter, the stand of the revenue officials that they have called for reports to the concerned authorities for taking further action, including filing an appeal against the judgement and decree in O.S.No.75 of 2005, does not reflect dilignece on their part. In the event, as long as the Judgment and decree in favour of the petitioner stands and is not set aside, varied or modified by the Appellate Court on an appeal preferred by the first respondent, the petitioner is entitled to issuance of patta as prayed for.

6.In view of the above, a positive direction is issued to the second respondent to issue patta to the petitioner, based on the representation made by



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WEB COPY the petitioner, in turn, based on the judgment and decree in O.S.No.75 of 2005.

The said exercise shall be carried out within a period of four weeks from the date of receipt of a copy of this order. It is, ofcourse, needless to mention that in the event of the respondents preferring a first appeal, challenging the judgment and degree in O.S.No.75 of 2005 and ultimately succeeding therein, then it would be open to them to recall the patta now being issued to the petitioner..

7. With the above observations and directions, this Writ Petition is disposed of. No costs.

10.03.2025

sjj

NCC: Yes/No

Index : Yes / No

Internet : Yes / No

To

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P.B.BALAJI, J.

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