



W.P.(MD)Nos.6252 of 2022 and 26886 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : **02.04.2025**

Delivered on : **16.04.2025**

CORAM:

THE HONOURABLE MR JUSTICE P.B. BALAJI

W.P.(MD)Nos.6252 of 2022 and 26886 of 2024

and

W.M.P.(MD)Nos.4856 of 2022 & 22783 && 22784 of 2024

W.P.(MD)No.6252 of 2022

1. Veeraraju. A
Rep. through his Power Agent N.Sakkarai Mohamed
 2. Raja. A
Rep. through his Power Agent N.Sakkarai Mohamed
 3. A.Sekar
Rep. through his Power Agent N.Sakkarai Mohamed
 4. Govindarajan. R
Rep. through his Power Agent N.Sakkarai Mohamed
- ... Petitioners

/Vs./

1. The Commissioner of Land Administration,
Chepauk,
Chennai.
 2. The District Collector
Sivagangai District.
- ... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ Certiorari, to call for the records of impugned order dated 27.12.2019 bearing Reg.No.D.Dis.K1/14678/2016 passed by the 1st respondent and quash the same.

For Petitioners : Mr.S.Madhavan

For Respondents : Mr.B.Saravanan,
Additional Government Pleader

W.P.(MD)No.26886 of 2024

1. V.K.R.Karuppiah

2. Thamilarasi

... Petitioners

/Vs./

1. The Commissioner of Land Administration,
Chepauk, Chennai -05.

2. The District Revenue Officer
Sivagangai.

3. The Tahsildar
Karaikudi,
Sivagangai District.

4. The Joint II Sub Registrar
Karaikudi,
Sivagangai District.

5. C.Sivaraman

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records from the second respondent in Na.Ka.C3/3960/2015 dated 24.06.2016 and consequent order passed by the first respondent proceedings No.D.Dis.K1/14678/2016 dated 27.12.2019 and quash the same.

For Petitioners : Mr.R.M.Arun Swaminathan

For Respondents : Mr.B.Saravanan,
Additional Government Pleader for R1-4

: Mrs.Devi Saravana Priya for R5

COMMON ORDER

The petitioners in both writ petitions challenge the order of the first respondent dated 27.12.2019.

2. I have heard Mr.S.Madhavan, learned counsel for the petitioners in W.P.(MD)No.6252 of 2022, Mr.R.M.Arun Swaminathan, learned counsel for the petitioners in W.P.(MD)No.26886 of 2024, Mr.B.Saravanan, learned Additional Government Pleader for the respondents in W.P.(MD)No.6252 of 2022 and respondents 1 to 4 in



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W.P.(MD)No.26886 of 2024 and Mrs.Devi Saravana Priya, learned counsel for the fifth respondent in W.P.(MD)No.26886 of 2024. I have also gone through the records, including the impugned order passed by the first respondent.

3. The case of the petitioners in W.P.(MD)No.6252 of 2022 is that the petitioners 1 to 4 have purchased portion of property comprised in survey No.87/1, under registered sale deed dated 09.02.1990, from one Mahalingam. According to the petitioners, who are represented by the deponent, the power agent one, Sakkarai Mohamed, the petitioners are in absolute in possession and enjoyment of subject property and they were also issued patta bearing No.1177.

4. It is the further case of petitioners that the estate of Kalanivasal was taken over Tamil Nadu Inam Estate Act 26 of 1963 and Ryotwari settlement was introduced in the year 1965. According to the petitioners, it was only the Inam Abolition Tribunal that had jurisdiction and rightly the Tribunal has passed final orders in R.A.No.1 of 1987 dated 08.01.1988. The order granting patta in the said proceedings became



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final, with no further appeal having been preferred before the Special Appellate Tribunal. Mr.S.Madhavan, learned counsel for the petitioners, would contend that in terms of Section 46 of the Act 26 of 1963, finality was reached and the said order cannot be questioned at this distance of time and that too by the first respondent, in and by the order impugned in the writ petition.

5. The learned counsel for the petitioners would submit that the first respondent had wrongly assumed jurisdiction and therefore contended that the order was clearly vitiated. He would further contend that no proper notices were issued to the petitioners, before passing the impugned order and there has been a deprivation of a fair opportunity to contest the notice / enquiry proceedings. He would further submit that there is violation of Rule 31 of the Board Standing Order as well as Section 10 of the Tamil Nadu Patta Passbook Act.

6. The learned counsel for the petitioner would also place reliance on the judgment of this Court in ***K.Kamala and Ors. V. The Executive Officer Arulmighu Nandeeswaraswamy Devasthanam Adambakkam***



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and Ors. reported in **2024-2-CTC-336** and another judgment of this Court in ***Tirunelveli Diocesan Trust V. S.Kanagaraj and Ors.*** reported in **2023-MHC-1751**.

7. Relying on the said decisions, the learned counsel for the petitioners would submit that any order passed under the Act, subject to appeal or revision as provided under the Act would become final and the correctness or otherwise of the same cannot be called in question in any Court of law and what has been saved is only jurisdiction of the civil Court to entertain a suit for declaration of title, based on the existing rights of the parties.

8. Mr.R.M.Arun Swaminathan, learned counsel for the petitioners in W.P.(MD)No.26886 of 2024, would contend that the petitioners are residing in survey No.87/1, Kalanivasal village, Karaikudi Taluk, Sivagangai District. According to the petitioners, the said lands were classified as “Government Dry Lands” only and after UDR settlement, in a Court auction sale in E.P. No.188/1971 in execution of decree in O.S.No.212 of 1966, a sale certificate was issued to one Anbumani,

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S/o.Subbiah Ambalam, who in turn conveyed the lands to one Mahalingam, under a registered sale deed, vide document No.176/1975. However, the learned counsel for the petitioners refuting the claim of the petitioners in W.P.(MD)No.6252 of 2022 would submit that the said sale deed was subsequently rectified by the vendor, viz., Anbumani under registered rectification deed dated 10.02.1976 vide document No. 120/1976, in and whereby the survey No.87/1 was corrected as survey Nos.86/1, 86/2 and 86/3.

9. The learned counsel for the petitioners would further submit that having purchased the property, the said Mahalingam approached the Assistant Settlement Officer under the Inam Abolition Act (Act 16/1963) and the said application was rejected by the Assistant Settlement Officer on 15.12.1983. As against the said order of the Assistant Settlement Officer, the said Mahalingam preferred an appeal before the Appellate Tribunal (Sub Court, Sivagangai), vide appeal No.1/1987 and the said appeal was allowed on 08.01.1988, confirming the entitlement of the said Mahalingam.



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10. Pursuant to the decree in his favour, the said Mahalingam sold the lands to four persons, viz., Veera Raju, Raja, Sekar and R.Govinda Rajan, in and by the registered sale deed vide document No.195/1990 dated 09.02.1990. The purchasers applied for patta before the third respondent. However, the third respondent expressed his inability to issue patta citing that the subject lands were classified as “Maravankottai Kalamman Kovil Poramboke”. It is further contended by the learned counsel for the petitioners, Mr.R.M.Arun Swaminathan, that as per settlement record, the land was classified as “Government Poramboke Tharisu” and subsequently, name of the temple was inserted. In the meantime, the Assistant Settlement Officer, Madurai, called upon the Tahsildar, to implement the order of the Sub Court, Sivagangai, in Inam Abolition appeal No.1/1987 dated 08.01.1988. In obedience with the directions of the Assistant Settlement Officer, the revenue records were also mutated in the name of the purchasers.

11. It is the specific contention of Mr.R.M.Arun Swaminathan that after the valid purchase made by four persons through the power of attorney, who is the deponent of the affidavit in W.P.(MD)No.6252 of

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2022, the lands prices having gone up multifold, the fifth respondent in W.P.(MD)No.26886 of 2024 filed a Public Interest Litigation in W.P. (MD)No.15703 of 2014. The said Writ Petition was disposed of on 07.09.2015, with a direction to consider the representation of the petitioner therein, in accordance with law and subsequently, the Tahsildar in compliance with the order of the Writ Court, by order dated 01.04.2016, rejected the request of the fifth respondent. In the meantime, the District Revenue Officer / second respondent, in and by proceedings, dated 24.06.2016, has requested the Sub Registrar Joint-II / fourth respondent not to register any document and subsequently, the first respondent also cancelled the patta by proceedings dated 27.12.2019. The learned counsel for the petitioners, Mr.R.M.Arun Swaminathan, would submit that first and foremost, without preferring an appeal under Section 30(1) of the Tamil Nadu Minor Inams (A&CR) Act, 1963, the first respondent, viz., Commissioner of Land Administration, ought not to have cancelled the patta issued to the petitioners. He would further submit that judgment in ITCMA.No.1/1987 dated 08.01.1988 had become final and the first respondent has not even considered the effect of the said judgment. He would further submit that the proceedings of



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the revenue authorities, without notice is also violative of Rule 31 of BSO r/w. Section 10 of the Tamil Nadu Patta Pass Book Act. He would also attack the prohibitory order issued by the second respondent, directing the fourth respondent to not entertain further registration. The learned counsel would pray for the impugned order being quashed.

12. Per contra, Mr.B.Saravanan, learned Additional Government Pleader, would submit that the fifth respondent had filed a Public Interest Litigation alleging bogus pattas were issued and to restore and protect the Government lands and in the said writ petition, by order dated 07.09.2015, a direction was issued to the statutory authorities to consider the said representation dated 06.08.2014 and pass orders within a period of three months, in accordance with law and after affording an opportunity to all persons, who are in occupation. The learned Additional Government Pleader would further submit that the fifth respondent filed yet another writ petition in W.P.(MD)No.7186 of 2017, seeking a writ of mandamus, to direct the first respondent in the said writ petition, to take steps to cancel the patta issued to the respondents 2 to 5 therein and their predecessor-in-interest to subject land in patta No.1177. The said writ

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petition was disposed of on 15.11.2017, by directing the authorities to consider the petitioner's representation, ie., the present fifth respondent's representation, on merits and in accordance with law, after giving an opportunity to the petitioner as well as the respondents 2 to 5 therein and all interested parties, if any, within a period of twelve weeks.

13. The learned Additional Government Pleader would submit that in compliance with the orders of this Court in W.P.(MD)No.7186 of 2017, the Tahsildar, Karaikudi, has conducted enquiry on 09.01.2018, 19.04.2018, 17.05.2018, 28.06.2018, 27.07.2018 and finally on 16.08.2018 and after giving opportunity to all the parties, the Tahsildar has stated that the writ petitioner, viz., the fifth respondent herein, was alone served with notice and despite efforts made to serve the respondents 2 to 4 therein, the same could not be effected and they are not residents of the locality and their whereabouts are not known. He would further submit that the notice was served on Saravanan, S/o.Govindarajan, son of one of the respondents, who resides in Karaikudi.



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14. The learned Additional Government Pleader would further submit that lands in survey No.87/1 had already been taken over by the Government on 15.05.1965 and the lands have been classified as “Government Poramboke - Maravankottai Kaliamman Kovil”. He would further refer to the Government Order in G.O.No.1889, Commercial Taxes and Religious Endowments Department dated 24.12.1976, fixing the last date as 31.03.1977, as limitation for making claims before the Settlement Authorities or before Inam Abolition Tribunal. He would therefore submit that the petitioners never claimed within the said period and the Assistant Settlement Officer, Madurai, ought not to have issued patta beyond the period of limitation, exceeding his power, in the year 1992. He would further submit that there is no illegality in the orders passed by the first respondent, which are impugned in these writ petitions. He would therefore pray for dismissal of these writ petitions.

15. The learned counsel for the fifth respondent, Mrs.Devi Saravana Priya would submit that the property comprised in paimash No. 1363 in patta No.180 originally belonged to Krishanammal and the said

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property was purchased by one Anbumani, through Court auction proceedings, in E.P.No.188 of 1971 in O.S.No.212 of 1966. Thereafter, the said Anbumani conveyed the property to one Mahalingam on 10.02.1975. She would further submit that the schedule of property, which is subject matter of property dated 10.02.1975 by reflecting paimash No.1363, new survey No.87/1, the rectification deed came to be executed by vendor Anbumani, in and by registered deed, dated 10.02.1976, in and whereby survey Nos.86/1, 86/2 and 86/3 were substituted in the place of survey No.87/1. She would therefore submit that the property purchased by Anbumani was not pertaining to survey No.87/1 at all and as per the settlement records, the survey No.87/1 has been classified as “Maravankottai Kaliamman Kovil Poramboke”. Therefore, she would submit that the Appellate Tribunal, without considering the rectification deed has proceeded to allow the Appeal preferred by Mahalingam in and by judgment dated 08.01.1988 and directed issuance of patta in respect of survey No.87/1.

16. The learned counsel for the fifth respondent, Mrs.Devi Saravana Priya, would therefore, submit that the judgment dated



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08.01.1988, without factoring the rectification deed was *non est* and no credence can be given to the said order of the Court. She would further submit that after obtaining patta, the said Mahalingam not only conveyed lands in survey No.87/1, but also survey Nos.86/1, 86/2, 86/3 and 87/2 to the four persons, viz., Veera Raju, Raja, Sekar and Govindarajan, under registered sale deed dated 09.02.1990. She would also point out to the proceedings of the third respondent dated 28.12.1990, where patta was issued in respect of survey No.87/1 in the name of one Mahalingam, despite Mahalingam having sold the property even as early as in February of the same year. It is thereafter that the four purchasers, who chose to execute a power of attorney on 09.03.2005 and on the same day, the power of attorney, viz., N.Sakkarai Mohamed, has sold the property to one Tamilarasi, W/o. Karuppaiah under document No.980/2005. She would further submit that the fifth respondent is a Poosari in the temple “Maravankottai Kaliamman Kovil”, which has been in existence from even the Chola period and the petitioners are attempting to encroach into Poramboke lands, taking advantage of the judgment in Inam Abolition Appeal dated 08.01.1988, suppressing the rectification deed. She would further submit that it only at the request of the fifth respondent that the



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revenue authorities were called upon to pass orders and the patta was granted have been rightly cancelled and the orders had been called for no interference. She would therefore pray for dismissal of these writ petitions.

17. I have carefully considered the submissions advanced by the learned counsel on either side.

18. The order which is impugned in both these writ petitions is the order of the first respondent dated 27.12.2019. The fifth respondent has filed a public interest litigation before this Court and pursuant to the orders passed by this Court, enquiry has been conducted and orders came to be passed, which are impugned in these writ petitions. The first respondent has relied on the report of the District Revenue Officer, Sivagangai, who conducted an enquiry and opined that the Assistant Settlement Officer granted patta in the year 1992, after a period of 22 years and has also stated that persons, who have got such patta, were even not residents of the village and hence, show cause notices issued were returned.



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19. At the outset, it is to be noted that the petitioners rest their entire case of claim to ownership of survey No.87/1. Once the vendor, Anbumani had executed a rectification deed, duly registered on 10.02.1976, the property, which is subject matter of the conveyance under the earlier sale deed dated 10.02.1975, stands changed to lands in survey No.86/1, 86/2 and 86/3. Therefore, no portions of lands in survey No.87/1 has been alienated or conveyed by the said Anbumani in favour of Mahalingam in the first place. It is also seen that two pattas have been issued under patta No.1177 originally in the name of Mahalingam, which has been subsequently mutated in the names of four persons, viz., Veera Raju and three others. This patta refers only to survey No.87/1. It is seen that the said patta has been issued on 23.11.1983. Yet another patta, has been issued to very same four purchasers pertaining to land in survey No. 86/1, 86/2, 86/3 and 87/2. In view of the rectification deed executed to the sale deed, the petitioners can claim title only insofar as lands in survey Nos.86/1, 86/2, 86/3 and 87/2 and not in survey No. 87/1. Unfortunately, taking advantage of the judgment dated 08.01.1988, without bring it to the notice of the Court that the sale deed had been



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rectified by subsequent registered document and survey No.87/1 has been totally omitted and survey No.86/1, 86/2 and 86/3 have been incorporated, the vendors / vendors of the petitioners have obtained patta even in respect of survey No.87/1 and thereafter, the lands have been conveyed to various third party purchasers.

20. On a perusal of the judgment in ITCMA No.1 of 1987, I find that the Sub Court has proceeded to discuss the contentions of the parties pertaining to survey No.87/1 alone and relying on the sale deed dated 10.02.1975, the Court has proceeded to hold that paimash No.1353 new survey No.87/1 established legitimate right of the appellant therein and also took note of the report of the Tahsildar, dated 23.11.1983 stating that insofar as survey No.87/1, the State is not interested, proceeded to allow the appeal, I find from a careful reading of the judgment that there is absolutely no reference to the registered rectification deed dated 10.02.1976. In the light of the said rectification deed, the petitioners/ petitioners' vendors do not have any right to lands in survey No.87/1. It is not the case of the petitioners / petitioners' vendor that independent of sale deed dated 10.02.1975, they had a right insofar as the lands in



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survey No.87/1. Further, though the judgment of the Sub court, dated 08.01.1988 became final, when the petitioners / petitioners' vendors had suppressed the rectification deed, which goes to the root of the matter even in respect of the subject matter of conveyance. The petitioners in these writ petitions cannot take an advantage of the patta issued to the four purchasers from Mahalingam and subsequent purchasers from the said four persons, who have formed lay out under the name and style of “Sri Koppudaiya Amman Nagar” and sold plots to various third parties. Though it is contended by the learned counsel for the petitioners in W.P. (MD)No.6252 of 2022 that the rectification deed would not in any manner affect the title of the petitioners, when four boundaries match and therefore incorrect description of the survey number cannot prejudice the interests of the purchasers, I am unable to countenance the said submission for the simple reason that when there is a dispute with regard to the boundaries and extent alone, then it is settled law that the boundaries would prevail over extent. However, when there is a dispute or mistake with regard to even the survey number, then, the property being shown out to have four sides by four definite boundaries cannot come to the rescue of the purchasers. The petitioners have not been able



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to show their entitlement to the lands in survey No.87/1 apart from the sale deed dated 10.02.1975 and of course, based on the said sale deed, the order of the Sub Court.

21. In view of the above, I have seen no error or illegality in the reflection of survey No.87/1 as “Maravankottai Kalamman Kovil”. Also, as pointed out by the learned counsel for the respondents, lands in survey No.87/1 were taken over by the Government even on 15.05.1965 and ever since the village account, the said lands are reflected as “Government Poramboke - Maravankottai Kalamman Kovil”.

22. As regards issuance of patta at the instance of the Assistant Settlement Officer in the year 1992, no doubt, the period of limitation for making claims ended with 31.03.1977 and thereafter, no claims can be entertained before the Settlement Authorities or before the Inam Abolition Tribunal. The argument of the respondents that the pattas ought not to have been granted in 1992, does not find favour with me for the simple reason that the settlement officer had only directed implementation of the judgment of the civil Court by directing the



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Tahsildar to issue patta. However, as already discussed herein above, the judgment of the Sub Court was passed without the material document, namely, rectification deed being brought to its notice, which if had been disclosed or brought to the notice of the Court, then certainly the appeal would not have been allowed in favour of Mahalingam, the predecessor-in-interest of the petitioners herein.

23. I have also independently gone through the orders impugned in these writ petitions. Though the approach of the first respondent stating that the Assistant Settlement Officer, Madurai, could not have granted patta in the year 1992 is fallacious, as discussed herein above, yet the first respondent has rightly found that the lands in survey No.87/1 had already been taken over by the Government, even in the year 1965 and ever since they continued to stand in the village account only as “Government Poramboke - Maravankottai Kaliamman Kovil” and therefore, the order impugned is justified and can not be termed as perverse or illegal. In fact, the first respondent has also directed to take disciplinary action against the officers, who failed to report to the Government and protect the Government lands and also encroached

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formation of real estate. The petitioners ought to have been careful while proceeding to purchase the respective properties. It is not as if the rectification deed is an unregistered document. It is a duly registered rectification deed executed by the very same vendor in favour of the very same purchasers, who are parties to the sale deed dated 10.02.1975. Therefore, the petitioners can only blame themselves for not taking diligent steps in verifying antecedent title of their predecessor-in-title, before embarking on purchase. The classification of lands of Government Poramboke and Maravankottai Kaliamman Kovil right from 1965 has also not been noted the petitioners and if only they had been more cautious, they could have avoided purchase of Government lands.

24. For all the foregoing reasons, I am not inclined to accept the case of the writ petitioners. The petitioners cannot get better right than what Mahalingam, their predecessor-in-interest had and therefore, in the absence of any document what so ever to substantiate the entitlement of lands in survey No.87/1, which have reflected as “Government lands - Maravankottai Kaliamman Kovil”, I do not find any merit in both the



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writ petitions, warranting interference with the orders of the respondents, which are impugned in these writ petitions.

25. The learned counsel for the petitioners would submit that lands in survey No.87/1 had been formed as a lay out and several plots have been sold to innocent third party purchasers right from 2002 onwards and as late as 2014. Tthe learned counsel for the petitioners would submit that the petitioners are *bonafide* purchasers and for value and therefore, their rights should be protected.

26. As regards the decision relied on by the learned counsel for the petitioners, though I have no quarrel with regard to the finality of the orders passed under the Act 26/1963, when there has been suppression of material documents, viz., rectification deed from the Court and the said document having a material bearing on the decision of the Court, on the facts of the present case, I have no hesitation to hold that the said judgment and decree obtained by suppressing material facts cannot have any force in law. Therefore, I am not obliged to follow the ratio laid down in the above two cases and hold that since the judgment in Appeal



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No.1/1987, dated 08.01.1988, has become final, the subsequent impugned proceedings are void and liable to be set aside.

27. However, I find no material placed by the petitioners to the effect that the said lay out has been approved by the competent authority. If at all the promoters had applied for necessary lay out approval, claiming right over survey No.87/1, certainly the lay out approval would not have been sanctioned and therefore, I am unable to countenance the submissions of the learned counsel for the petitioners in this regard.

28. In fine, these Writ Petitions are dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes / No
NCC : Yes / No
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TO:-

1. The Revenue Divisional Officer,
Palayamkottai,
Tirunelveli.

2. The Tahsildar
Palayamkottai Taluk,
Tirunelveli District.
Madurai.



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P.B. BALAJI, J.

LS

Pre- delivery Orders made in
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Dated:
16.04.2025
(2/2)