



W.P.(MD)No.4868 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.03.2025

CORAM:

THE HONOURABLE MR JUSTICE P.B. BALAJI

W.P.(MD)No.4868 of 2023

Thiraviyam

... Petitioner

Vs.

1. The District Collector,

Kanyakumari District

at Nagercoil.

2. The District Revenue Officer,

Agasteeswaram Taluk, at Nagercoil,

Kanyakumari District.

3. The Revenue Divisional Officer,

Agasteeswaram Taluk, at Nagercoil,

Kanyakumari District.

4. The Tahsildar,

Agastheeswaram Taluk,

Kanyakumari District.

... Respondent(s)

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 4 to mutate the revenue records pertaining to the lands bearing Survey No.2229, Kanyakumari Village, at present 0.85.5 Ares comprised in R.S.No.35/8,



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and 2.10.5 Hectares comprised in R.S.No.35/9, Leepuram Village, Agastheeswaram Taluk, Kanyakumari District totally to an extent of 7.30 Acres, and to change the character of the pond as patta land and to issue a computerized or other joint patta in the name of the petitioner, in the light of representation dated 30.10.2020 within a time, as may be fixed by this Hon'ble Court by allowing the above writ petition

For Petitioner : Mr.G.Aravinthan

For Respondents : Mr.B.Saravanan
Additional Government Pleader
for R1 to R4

ORDER

I have heard Mr.G.Aravinthan, the learned counsel appearing for the petitioner and Mr.B.Saravanan, learned Additional Government Pleader appearing for the respondents 1 to 4.

2. The petitioner seeks issuance of a Writ of Mandamus, to direct the respondents 1 to 4 to mutate the revenue records pertaining to survey No.2229, Kanyakumari Village, at present 0.85.5 Ares comprised in R.S.No.35/8, and 2.10.5 Hectares comprised in R.S.No.35/9, Leepuram Village, Agastheeswaram Taluk, Kanyakumari District totally to an



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extent of 7.30 Acres and to change the classification of the pond as patta land and to issue a computerized or other joint patta in the name of the petitioner, in the light of representation of the petitioner dated 30.10.2020

3. It is the case of the petitioner that the lands belonged to his forefathers, who had purchased the property even in Malayalam Era 1063, which corresponds to 1800 AD. The petitioner's predecessors in interest have been in possession and thereafter the ancestors of the writ petitioner and presently the petitioner is in possession of the subject lands, carrying on irrigation activities.

4. The grievance of the petitioner is that the year 1969, during the time of survey and settlement, the petitioner's lands were wrongly classified as “Poramboke tank”. The petitioner, joining hands with other legal heirs filed a suit in O.S.No.50 of 1986, seeking a mandatory injunction to rectify the defects in the revenue records and also sought for a permanent junction. The Additional District Munsif Court, Nagercoil, after trial, dismissed the suit. Aggrieved by judgment and



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decree of the trial Court, the petitioner and his family members filed an appeal in A.S.No.9 of 2000 before the Subordinate Court, Nagercoil. The said appeal came to be allowed on 29.11.2000. The said judgment and decree of the first appellate Court was challenged by the Government in S.A.No.SR24311 of 2022 before this Court and it was dismissed even at the stage of condonation of delay. Based on the judgment and decree, the petitioner now seeks rectification of the error and issuance of patta in the joint names of the persons, who are entitled to, in terms of law of succession.

5. The learned Additional Government Pleader would submit that even prior to the enactment of the Tamil Nadu Settlement Act 1964, the subject lands are recorded as “Kulam Poramboke” and it is not possible to convert watercourse poramboke land into Ryotwari land, which have been nationalized and brought into public use from the date of the relevant notification. Unfortunately, it is not open to the respondents to stick on the defence that was taken in the civil Court and was rejected by the first Appellate Court though found favour the trial Court. The Second Appeal filed belatedly was also dismissed at the stage of condonation of delay, thereby, confirming the decree in the first appeal.



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6. In view of the above, the petitioner is entitled to implementation of the decree of the civil Court, which also came to be confirmed by this Court in SA.No.SR24311 of 2002. In view of the above, the petitioner is entitled to issue a writ of mandamus. The first respondent is the first defendant in the suit and is bound by the decree in the first appeal.

7. Therefore, the first respondent shall take immediate steps to correct the mistake and restore the patta in the joint names as prayed for by the petitioner, within a period of eight weeks from the date of receipt of a copy of this order. However, considering that the claim of the respondents is that the subject property is a waterbody, it shall be open to the respondents to take such further steps to protect the waterbody, by imposing reasonable conditions, without in any manner violating the decree of the civil Court.

8. This Writ Petition is allowed. There shall be no order as to costs.

Index : Yes / No
NCC : Yes / No
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P.B. BALAJI, J.

LS

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Order made in
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Dated:
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