

W.A(MD)No.1650 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 24.06.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

**W.A(MD)No.1650 of 2025
and
C.M.P(MD)No.9252 of 2025**

S.Syed Hakeem

... Appellant /
3rd Party

Vs.

1.R.Abdul Kaleem

... 1st Respondent /
Petitioner

2.The District Collector,
Office of the District Collector,
Pudukkottai District.

3.The Revenue Divisional Officer,
Illupur Taluk,
Pudukkottai District.

4.The Tahsildar,
Illupur Taluk,
Pudukkottai District.

5.The Zonal Deputy Tahsildar,
Illupur Taluk,
Pudukkottai District.

... Respondents 2 to 5 /
Respondents



W.A(MD)No.1650 of 2025

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order dated 13.02.2025 in W.P(MD)No.3891 of 2025 by allowing this Writ Appeal.

For Appellant : Mr.P.Ganapathi Subramanian

For Respondents : Ms.H.Jasima Yasmin
for M/s.Ajmal Associates
for R.1

Mr.N.Ramesh Arumugam
Government Advocate
for R.2 to R.5

JUDGMENT

(Judgment of the Court was made by **G.R.Swaminathan J.**)

Heard both sides.

2.The case on hand pertains to mutation of patta. The property belonged to one Mohamed Yusuf. The said Mohamed Yusuf was blessed with a daughter by name Rameeza Beevi. The said Rameeza Beevi had three sons and one daughter. The third son was Rahmadullah. The case of Rahmadullah was that Mohamed Yusuf had gifted the petition mentioned property in his favour through Hiba. Rahmadullah in turn settled the property in favour of the writ



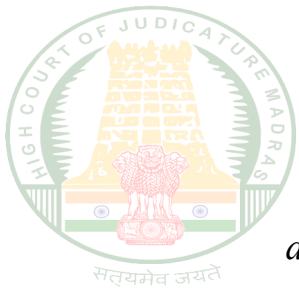
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petitioner Abdul Kaleem vide documents dated 16.05.2023 and 29.05.2023.

Registration of the said documents had run into difficulties. By approaching the writ Court, Abdul Kaleem got the documents registered. Subsequently, Abdul Kaleem moved the Tahsildar, Ilupur Taluk for mutation of patta in his name. The Tahsildar, Ilupur Taluk did not accede to the request of Abdul Kaleem. Thereafter, Abdul Kaleem filed an appeal before the Revenue Divisional Officer, Ilupur. The Revenue Divisional Officer, Ilupur rejected the request vide order dated 22.11.2024. Challenging the same, Abdul Kaleem filed W.P(MD)No.3891 of 2025. The order impugned in the Writ Petition was set aside and the Writ Petition was allowed in the following terms:

“4.The petitioner claims title under Hiba executed by the petitioner's great grandfather in favour of his grandson, ie., petitioner's father, who in turn, settled the properties in favour of the petitioner by way of settlement deeds.

5.When the petitioner's father proposed to execute settlement deeds in favour of the petitioner herein, the registration authorities issued a check-slip on 21.11.2022 refusing registration of the settlement deeds on the ground that the Hiba was unregistered. This Court in WP(MD) No. 28449 of 2022, by order dated 31.03.2023 pointing out that the oral Hiba in the presence of two witnesses is recognized as a lawful gift under Mohammedan Law, set aside the refusal check-slip and directed the registration of the settlement



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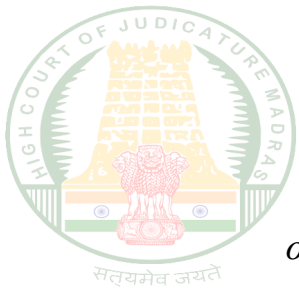
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deeds, if the documents were otherwise in order. Admittedly, after the said order, the settlement deeds in favour of the petitioner were duly registered in favour of the petitioner on the file of Sub Registrar, Annavasal in and by sale deeds, dated 16.05.2023 and 29.05.2023.

6.In furtherance of the settlement deeds in favour of the petitioner, the petitioner has approached the revenue authorities for mutation of patta in the name of the petitioner. However, for the very same reason of non registration of Hiba, it has been put against the petitioner and the mutation is refused. In fact, I see from the impugned order that the 2nd respondent has not understood the purport of the document Hiba is an oral gift, which is permissible under Mohammedan Law. However, the 2nd respondent has referred to Hiba as a Will and refused mutation of the revenue records. The impugned order is not wholly sustainable and also against the order passed by this Court in WP(MD) No.28449 of 2022, dated 31.03.2023.

7.It is unfortunate that despite the order of this Court is being brought to the notice of the 2nd respondent, yet the 2nd respondent has rejected the claim of mutation in view of the sole ground that the Hiba is unregistered. The impugned order is unsustainable in the eye of law.

8.For all the above reasons, this writ petition is allowed and the impugned order of the 2nd respondent, dated 22.11.2024 is set aside and the respondent is directed to carry



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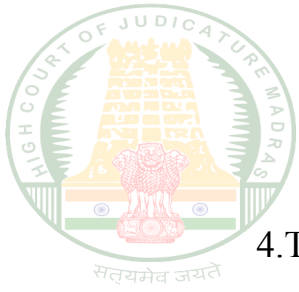
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out the mutation in favour of the petitioner, based on the settlement deeds, dated 16.05.2023 and 29.05.2023 in favour of the petitioner. The said exercise shall be completed within a period of eight weeks from today. No costs. Consequently, connected miscellaneous petition is closed.”

Challenging the same, this third party Appeal has been filed by Syed Hakeem, who is the grandson of Rameeza Beevi through the first son (Sakul Hameed).

It has been brought to our notice that Syed Hakeem / the appellant herein has filed O.S.No.250 of 2024 on the file of III Additional District Court, Pudukottai challenging the Hiba said to have been made by Mohamed Yusuf in favour of Rahmadullah as well as the settlement deed executed by Rahmadullah in favour of the writ petitioner / Abdul Kaleem. The suit was filed in the third week of November 2024. Abdul Kaleem was shown as the second defendant in the suit. Abdul Kaleem entered appearance in the suit on 22.01.2025. This writ petition was filed only on 09.02.2025.

3.Abdul Kaleem was fully aware that a rival claim had been projected by the appellant herein. Therefore, Abdul Kaleem ought to have impleaded the appellant herein in the writ proceedings. Failure on the part of Abdul Kaleem to implead the appellant cannot be appreciated. The writ petition thus suffered from the vice of non-joinder of a necessary party.



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4. That apart, in the suit, Hiba as well as the settlement deed has been put to challenge. Unless Abdul Kaleem succeeds establishing the validity of the Hiba and the settlement deed, the revenue record cannot be mutated in his favour. These aspects were not brought to the notice of the learned single Judge. In this view of the matter, order dated 13.02.2025 allowing W.P(MD)No.3891 of 2025 is set aside. The revenue record will reflect the name of Mohamed Yusuf till the disposal of the aforesaid suit.

5. This Writ Appeal is allowed accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

[G.R.S., J.] [K.R.S., J.]
24.06.2025

NCC : Yes / No
Internet : Yes / No
Index : Yes / No
MGA

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