



W.P.(MD)No.17435 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.03.2025

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THE HON'BLE MR.JUSTICE P.B.BALAJI

W.P.(MD)No.17435 of 2023

Chelliah

: Petitioner

Vs.

1.The Tahsildar,
Sankarankoil Taluk,
Tenkasi District.

2.Lakshmanan

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus, directing the first respondent to transfer the patta in the name of the petitioner, as per his application in 2023/0154/34/001583, considering his bonafide purchase, possession and enjoyment of the property, being 25 cents of land situated on the northern side of 50 cents of land, forming part of 2 Acres and 8 cents in the southern side of the larger extent of land admeasuring 4 acres and 16 cents in S.No.255/3C present S.No. 76/22 (T.S.No.76/27 of Sankarankoil Municipality) in Patta No.78, Sankarankoil Kaspas, Bharathiyar third Street, Tenkasi District within a time frame as may be fixed by this Court.



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W.P.(MD)No.17435 of 2023

For Petitioner : Mr.Y.Prakash

For Respondent No.1 : Mr.B.Saravanan

Additional Government Pleader

For Respondent No.2 : Mr.F.X.Eugene

ORDER

The petitioner has filed the present Writ Petition, seeking issuance of Writ of Mandamus to direct the first respondent to transfer patta in the name of the petitioner as per his application in 2023/0154/34/001583.

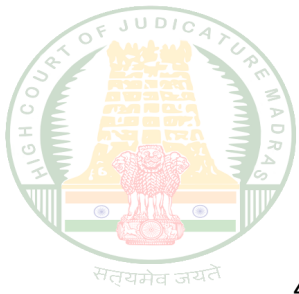
2.The case of the petitioner is that the petitioner's vendor has entered into an agreement of sale from the sons of the original owner one Ganapathi Chettiyar and since the agreement was not honoured, the petitioner's vendor approached the Civil Court for specific performance of the agreement of sale in O.S.No.91 of 2008. The said suit came to be decreed on 28.08.2009, though exparte. The petitioner having succeeded in the suit, filed execution petition in E.P.No.29 of 2012 and on the failure of the defendant / judgment debtor to comply with the decree, the executing court executed and registered the sale deed in favour of the petitioner's vendor. Thereafter, the petitioner's vendor mutated the patta in his name. Thereafter, the petitioner has purchased the subject property from the said vendor, who was the successful decree holder, in the court



W.P.(MD)No.17435 of 2023

proceedings arising out of a suit for specific performance. When the petitioner approached for transfer of patta in his name, the first respondent has expressed his inability citing pendency of the suit in O.S.No.39 of 2019. Therefore, the petitioner has approached this Court seeking issuance of Mandamus to direct the first respondent to issue transfer orders relating to the patta standing in the name of the petitioner's vendor.

3.However, learned Counsel for the second respondent would submit that the original owner Ganapathi Chettiyar, even during his life time has sold the subject property to the second respondent's grandfather Subramania Muthaliar, in and by registered sale deed dated 13.09.1969, even before the alleged sale by the legal heirs. Therefore, learned Counsel would submit that as on the date of entering into the agreement of sale with the petitioner's vendor, the sons of Ganapathi Chettiyar had no subsisting interest in the property. Therefore, he would submit that even assuming the Court has executed the decree in favour of the petitioner's vendor, the same would not convey valid title. Only in this regard, learned Counsel would submit that a suit has been filed to declare the sale deed of the petitioner's vendor as null and void. The said suit is admittedly pending and the writ petitioner is not a party to the said suit.



W.P.(MD)No.17435 of 2023

WEB COPY

4.Admittedly, till such time the second respondent succeeds before the Civil Court, getting a declaration that the sale deed in favour of the petitioner's vendor namely defendant in O.S.No.39 of 2019 is null and void, the said sale deed is valid and continues to have legal force. Moreover, the petitioner's vendor has been issued patta, which has not been challenged till date. Therefore, no prejudice would be caused, if the first respondent is directed to effect mutation of patta in the names of the petitioner as well as second respondent and issue a joint patta in respect of the subject property, subject to the outcome of the suit in O.S.No.39 of 2019. Necessary amendments and modifications shall be made in the patta thereafter.

5.Considering that the suit has been pending from 2019, this Court is directs the Sub-Court, Sankarankoil, to dispose of the said suit in O.S.No.39 of 2019, within a period of six [6] months from the date of receipt of a copy of this order.

6.Registry is directed to mark a copy to Sub-Court, Sankarankoil. It is also open to the petitioner to seek impleadment as party defendant in the suit, since as on date, the petitioner is claiming right over the property.



W.P.(MD)No.17435 of 2023

WEB COPY

7. Accordingly, this Writ Petition is disposed of. There shall be no order as to costs.

27.03.2025

Index : Yes / No
Internet : Yes / No
NCC : Yes/No
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W.P.(MD)No.17435 of 2023

To

1.The Sub-Court,
Sankarankoil.

2.The Tahsildar,
Sankarankoil Taluk,
Tenkasi District.



WEB COPY



W.P.(MD)No.17435 of 2023

P.B.BALAJI., J.

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W.P.(MD)No.17435 of 2023

27.03.2025