



W.P.(MD)No.17637 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.03.2025

CORAM

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

W.P.(MD)No.17637 of 2023

Ramalingam

: Petitioner

Vs.

1.The Revenue Divisional Officer,
Ram Nagar,
Devakottai,
Sivagangai District.

2.The Tahsildar,
Devakottai,
Sivagangai District.

3.The Zonal Deputy Tahsildar,
Devakottai,
Sivagangai District.

4.The Village Administrative Officer,
Kandadevi Group,
Devakottai Taluk, Sivagangai District.

5.Murugan

: Respondents

[R5 is impleaded vide order dated 26.02.2025 in W.M.P.(MD)No. 3891 of 2025]



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus, directing the respondents 2 to 4 herein to restore the patta No.170 in the name of the petitioner's father late Kalimuthu, S/o. Karuppiah Servai, as per the order of the first respondent in Pa.Mu.A1-3264-2015 dated 26.10.2015 directing the respondents 2 to 4 herein, within a reasonable time as may be fixed by this Court.

For Petitioner : Mr.B.Muruganandam

For Respondents 1 to 4 : Mr.S.Kameswaran

Government Advocate

For Respondent No.5 : Mr.K.P.Narayana Kumar

ORDER

The Writ Petition seeks implementation of the order passed by the Revenue Divisional Officer, in and by Pa.Mu.A1-3264-2015 dated 26.10.2015, by directing the respondents 2 to 4 to issue patta in the name of the petitioner's father late Kalimuthu son of Karuppiah Servai.

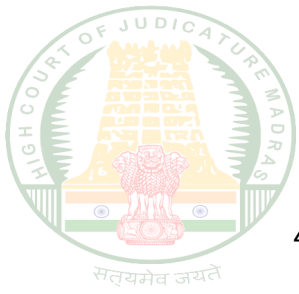
2.Heard the learned Counsel for the petitioner, Mr.S.Kameswaran, learned Government Advocate appearing for the respondents 1 to 4 and Mr.K.P.Narayana Kumar, learned Counsel appearing for the fifth respondent.



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3.The grievance of the petitioner is that despite order of the first respondent dated 26.10.2015, after due enquiry, directing patta to be issued in the name of the petitioner's father Kalimuthu, the said order was never implemented by the respondents 2 to 4, despite several requests and representation made by the petitioner. It is also seen from the affidavit filed that in the meantime, one Kalimuthu, son of Arunachalam, filed a suit in O.S.No.82 of 2015, on the file of the District Munsif Court, Devakottai, seeking reliefs of declaration and permanent injunction. However, the said suit was dismissed for default on 07.02.2018. The said Kalimuthu, filed an application for restoration of the suit, which was also dismissed and the same has attained finality. Despite the said dismissal of the suit filed by Kalimuthu, son of Arunachalam, the said Kalimuthu has proceeded to execute a sale deed in favour of one Murugan, namely the fifth respondent herein on 19.12.2018, suppressing the dismissal of the suit filed for declaration and permanent injunction, as well as the order passed by the first respondent on 26.10.2015. It is however, brought to my notice by the learned Government Advocate that based on the sale deed in favour of the fifth respondent, patta has now been mutated in the name of the fifth respondent.



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4.It is seen from the UDR records that in March 2013, though patta was rightly mutated in the name of the petitioner's predecessors, subsequently, Patta No.1167 has been issued to Kalimuthu son of Arunachalam, which order was cancelled by the Revenue Divisional Officer after detailed enquiry in and by the order dated 26.10.2015. Ignoring the said order of the Revenue Divisional Officer dated 26.10.2015, the respondents 2 and 3 appear to have mutated the patta in the name of the fifth respondent based on the sale deed.

5.I am also able to find that the predecessors under whom the fifth respondent claims right namely one Somasundaram Chettiyar was also a party to the said proceedings of the first respondent and he was represented by an Advocate. Moreover, the suit filed by the fifth respondent's vendor also came to be dismissed and the attempt to get the suit restored was also unsuccessful. However, learned Counsel for the fifth respondent would submit that he has moved this Court by way of separate application, seeking leave to reopen the suit for declaration and injunction, since the fifth respondent has now purchased the property from the said Kalimuthu son of Arunachalam. Admittedly, the said application is pending on the file of this Court and yet to be taken up for final disposal.

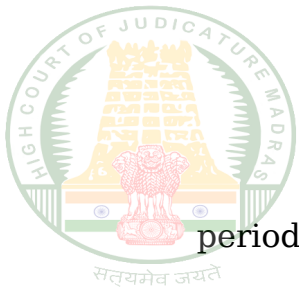


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6.Be that as it may, considering the fact that patta today stands in the name of the fifth respondent, it would not be possible for the respondents 2 to 4 to implement the order dated 26.10.2015, to restore the patta in the name of the petitioner's father late Kalimuthu son of Karuppiah Servai. The fifth respondent would have to be given fair and reasonable opportunity to defend the patta that has been mutated in his favour. At the same time, the petitioner having succeeded before the first respondent in a detailed enquiry conducted, not only in the presence of the petitioner but also the predecessors in interest of the fifth respondent cannot also be made to wait endlessly.

7.Considering the above, the Writ Petition is disposed of, remitting the matter to the first respondent to conduct an enquiry by taking into account the earlier order passed in Pa.Mu.A1-3264-2015 dated 26.10.2015 and the circumstances under which the patta was allowed to be mutated in the name of the fifth respondent, who has purchased from one Kalimuthu son of Arunachalam. Thereafter, the first respondent shall pass a considered order, after giving a fair opportunity to the petitioner as well as fifth respondent to put forth all contentions / objections with regard to mutation of patta. The first respondent shall re-hear the matter and pass final order within a



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period of twelve [12] weeks from the date of receipt of a copy of this order.

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8.The learned Counsel for the fifth respondent would further state that the fifth respondent even doubts the identity of the petitioner and according to the fifth respondent, the petitioner claims right under Kalimuthu, whereas, originally records stand in the name of Kalimuthan. Therefore, it is for the petitioner to establish the same. All these issues shall be taken into account by the first respondent, while taking a decision.

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

06.03.2025

Index :Yes / No
Internet : Yes / No
NCC : Yes/No
MR



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