



W.P.(MD)No.20730 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : **12.03.2025**

Delivered on : **25.03.2025**

CORAM:

THE HONOURABLE MR JUSTICE P.B. BALAJI

W.P.(MD)No.20730 of 2022

and

W.M.P.(MD)No.15034 of 2022

Rajapalayam Poona Samiyar Madam Nandavanam

Dhandayuthapani Thirukoil through its Trustee

Hariharabharathi

Rep.by its power of attorney

M.Balakumar

... Petitioner

/Vs./

1.The Revenue Divisional Officer,

Sathur, Virudhunagar District.

2.The Special Officer,

cum Special Tahsildar,

Town Re-survey Settlement (Natham)

Rajapalayam, Virudhunagar District.



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3.Arumugaperumal

President of Saliyar Community,

Angaiah Raja Street,

Rajapalayam, Virudhunagar District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order of the first respondent dated 14.07.2022 passed vide proceedings in Mu.Mu.A3/4993/2021 and quash the same and consequently direct the respondents to restore the patta in respect of S.no. 1288/16 and Town Survey nos. 16/1 16/2 16/3 16/4 and 16/5 admeasuring 0.5285.0 ares in Block 15 Ward H Rajapalayam Town Virudhunagar District in the name of Poona Samiyar Madam Nandavanam represented by its Trustee, from Poona Samiyar Madam Nandavanam Saliyar Samoogam, within a time frame fixed by this Court.

For Petitioner : Mr.A.V.Arun
for Mr.Y.Prakash

For Respondents : Mr.B.Saravanan
Additional Government Pleader for R1&2

: Mr.N.Dilipkumar for R3



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ORDER

The petitioner challenges the order of the first respondent dated 14.07.2022 in Mu.Mu.A3/4993/2021 and consequently, seeks restoration of patta in favour of the petitioner.

2. I have heard Mr.A.V.Arun, learned counsel for the petitioner, Mr.B.Saravanan, learned Additional Government Pleader, for the respondents 1 & 2 and Mr.N.Dilipkumar, learned counsel for the third respondent. I have also gone through the records.

3. The case of the petitioner is that the property comprised in survey No.1288/16 and subdivided T.S.Nos.16/1, 16/2, 16/3, 16/4 and 16/5, admeasuring 0.5285.0 Ares, situated at Block 15, Ward H, Rajapalayam Town, Virudhunagar District, originally belonged to one Maruthuvamalai Moopnar and his brothers, who are the sons of Ponnuranga Moopnar, and they have succeeded to the subject property through a partition deed dated 10.11.1918.



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4. The contention of the petitioner is that the said Maruthuvamalai Moopanar and his brothers constructed a Dhandayuthapani temple, Saidapettai Swami Samadhi, in the subject lands for the welfare of the family. Subsequently, they also put up a Samadhi for “Poona Samiyar”, who was residing and performing poojas and rituals for the deities and samadhis in the subject property. In course of time, the property itself came to be known as “Poona Samiyar Madam” and patta No.497 came to be issued in such name, even as early as in the year 1950. The Madam was represented by its Trustee Ramasamy Moopanar, who is the paternal ancestor of the petitioner Trustee.

5. The petitioner would further contend that his ancestors founded the private Trust, vide trust deed dated 23.04.1942, for the purpose of administering the “Poona Samiyar Madam” as well as the temple constructed in the subject property and the said Ramasamy Moopanar, who is the grand father of the present Trustee, was appointed as the Managing Trustee, in terms of the trust deed. After the demise of the said Ramasamy Moopanar, the senior most member of his lineal descendants



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have been appointed as the Managing Trustee. The case of the petitioner is that the Trust has been administered by the descendants of Ramasamy Moopanar and the subject property has always been treated as family property.

6. It is further contended by the petitioner that after the demise of the said Ramasamy Moopanar, certain persons belonging to the same community of the Trustees, attempted to usurp the subject property as if it belonged to “Saliyar Community”. The petitioner trust was constrained to file a suit in O.S.No.295 of 1999 before the Additional District Munsif, Srivilliputhur, against the rival claimants Gurupackiam and 4 others. In the said suit, it was contended by the said Gurupackiam and others that the subject property was purchased by Poona Samiyar even in the year 1933 and it is only the Saliyar Community people who assisted him, after his death, it was administered by Ramasamy Moopanar, till his life time. After the life time of Ramasamy Moopanar in the year 1982, the members of Saliyar Community belonging to five villages, took over the administration of the temple and the samadhis built in therein. On contest, the suit was dismissed by the trial Court by judgment dated



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06.10.2004. The petitioner trust filed an appeal in A.S.No.10 of 2005 on the file of the Subordinate Court, Srivilliputhur, and cross appeal was filed by the defendants, viz., Gurupackiam and others. By then a separate suit had also been filed in a representative capacity in O.S.No.331 of 1999 by Ainthuvoor Saliyar Samoogam, against the then Managing Trustee of the petitioner, viz., Murugaboopathi and another, seeking to declare the subject property and Madam, Nandavanam, Samadhis, Temple etc to be belonging to the said plaintiff. Relief of consequential permanent injunction was also sought for. The appeal preferred by the petitioner Trust was allowed and the cross appeal filed by Gurupackiam was dismissed. The defendants, who were unsuccessful, preferred a second appeal in S.A.(MD)No.59 of 2008 before this Court. The said second appeal was dismissed by judgment and decree dated 19.01.2012, confirming the judgment and decree of the Appellate Court in favour of the petitioner Trust. However, this Court, while disposing of the second appeal granted liberty to the Saliyar Community to establish their right in the pending comprehensive suit in O.S.No.331 of 1999.



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7. However, it is contended by the petitioner that the said suit in O.S.No.331 of 1999 was not prosecuted and the same was dismissed for default on 05.12.2014 and no attempts were made to restore the said suit. The petitioner Trust thereafter filed a Trust Original Petition in Trust O.P.No.2 of 2008 before the District Court, Virudhunagar District, seeking direction to sell a portion of the subject lands. The said O.P was allowed on 22.12.2008. However, certain third parties challenged the said permission granted to the petitioner Trust in C.R.P.(MD)No.554 of 2011 and this Court allowed the Civil Revision Petition and remand the matter for fresh hearing after affording opportunity to the third parties to put forth their case. The O.P was not prosecuted by the petitioner Trust, as according to the petitioner, the proposal for sale was by then dropped.

8. It is further stated that in the year 2018 for construction of rail over bridge, the lands were proposed to be acquired. The third respondent claimed compensation to the authorities, on the basis of patta standing in the name of “Poona Samiyar Madam Nandavanam Saliyar Samoogam”. The petitioner contending that the name of Ramasamy



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Moopanar was removed and Saliyar Community was inserted erroneously by the second respondent, by order dated 16.04.2001, without even issuing any prior notice to the petitioner Trust, or its Trustees, on the strength of the judgment passed by this Court in S.A. (MD)No.59 of 2008 as well as the dismissal of the suit filed by Saliyar Community in O.S.No.331 of 1999, the petitioner sent a detailed representation to the first respondent on 11.09.2020, seeking restoration of the patta in the name of Poona Samiyar Madam Nandavanam, represented by its Trustee, Ramasamy Moopanar. However, the first respondent, in and by the impugned order dated 14.07.2022, rejected the petitioner's representation and directed the petitioner to approach the civil Court. The said order of the first respondent is under challenge in this writ petition.

9. The learned counsel for the petitioner, Mr.A.V.Arun, would contend that the first respondent has ignored the earliest patta standing in the name of the petitioner's Trust, which was subsisting for several decades. He would further contend that without even any notice to the petitioner trust or trustees, the said patta was mutated in the name of the



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third respondent. The first respondent failed to see the effect of the civil Court decree in favour of the petitioner Trust and had clearly erred in directing the petitioner Trust to approach the civil Court for redressing its grievance. He would further contend that the first respondent has misconceived and misconstrued the case of the petitioner Trust which only sought for patta in the name of the petitioner Trust and not in any individual name. He would further contend that the first respondent has, besides ignoring the judgment and decree, which was confirmed by this Court in second appeal, also failed to even refer to the various revenue records, including patta No.497, ULT Receipts, TSR copy, chitta extract, etc., which are standing in the name of the petitioner Trust for the past several decades. The learned counsel would therefore pray for the writ petition being allowed.

10. Per contra, Mr.N.Dilip Kumar, learned counsel appearing for the third respondent, would first and foremost contend that the writ petitioner has no locus to file the writ petition and it has not been satisfactorily explained as to how the writ petitioner had authority to represent “Poona Samiyar Madam”. He would further submit that when



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the Trustee, Harihara Bharathi himself has no locus, tThe writ petition Trust itself being represented by his power agent can certainly not been entertained. He would submit that no satisfactory evidence has been produced till date, with regard to existence of the petitioner Trust or even as to how the Trustee Harihara Bharathi is entitled to represent the said Trust. Further, he would contend that the writ petition filed through the power of attorney of the said Harihara Bharathi is clearly not maintainable. In this regard, he would refer to the writ petitioner Trust themselves, referring the Trust, differently at different places and no Board Resolutions have been filed to even indicate the succession to the office of the Trust from the date of its creation in 1942.

11. The learned counsel would submit that old survey No.1288/16 presently covered by T.S.No.16 Thoppupatti Village was registered in the name of Ganapathy Yogishwarar Swamigal and registered as “Nandavanam”. After his demise, patta No.497 stood in the name of Poona Swamy Madam, Nandavanam, Tharkala Trustee, Ramasamy Moopnar and after 2001, the said patta is standing in the name of Poona Swamy Madam, Nandavanam, Tharkala Trustee, Saliyar Samoogam. He



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would therefore contend that the writ petition has been filed challenging the patta registered in the name of Saliyar Samoogam, in the year 2001, the challenge to the proceedings are belated and deserves to be rejected even on the ground of delay and laches.

12. The learned counsel for the third respondent would further refer to the Trust Deed relied on by the writ petitioner dated 23.04.1942, where lands have been situated to the east of the Nandavanam belonging to Poona Swamiyar is set apart for a religious charity. He would further contend that the property of the Nandavanam belongs to Poona Samiyar and not subject matter of the Trust. Further, placing reliance on the partition deed, dated 10.11.1918, Mr.N.Dilipkumar, would contend that insofar as the Adangal No.171 and 174, the petitioner has not been able to show any iota of interest over the same. He would therefore, contend that disputed questions of facts arose for consideration and the same cannot be decided by the revenue authorities, but only before the competent civil Court. Further, he would contend that the deponent of the counter affidavit filed by the third respondent is belonging to the Saliyar Community and he is in fact, the present president of the Trust



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owning the subject property. He would further submit that the property belonged originally to Ganapathy Yogishwarar Swamy, who established several religious structure by Dandayuthapani Swamy Temple, Nanadavanam, and Madam and a Well. The Poona Swamy also purchased lands in Adangal 171 under registered sale deed dated 15.08.1933 and annexed the said lands along with the lands already held by Poona Swamy and subsequently, on 08.09.1941, residents of 5 areas from Saliyar community constructed a Samadhi for Poona Swamy and they have taken up for task for performing poojas, conducting free Annadhanams etc. He would further contend that it is only the five villagers of Saliyar community, who are maintaining and administrating the temple, Nandavanam and other properties.

13. Further, with regard to mentioning of the name of Ramasamy Moopanar in the patta, he would further contend that he was the then elected President of five villagers of Saliyar community and only in such capacity his name was mentioned in the patta and no independent right was claimed by the said Ramasamy Moopanar. As regards Trust Original Petition filed before the Principal District Judge, Virudhunagar, seeking



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permission to sell portions of the property, the learned counsel would submit that the property was not even a private property owned by the petitioner or his family members and the very invocation of Section 34 of the Trust Act was itself not maintainable and rightly this Court allowed the C.R.P.(MD)No.554 of 2011 and remitted the matter to the District Court. Subsequently the permission to sell the property was also not granted, since the petition was dismissed on 08.08.2016. He would also refer to suit filed by Murugaboopathi, claiming to be the Trustee of the Madam in O.S.No.295 of 1999 before the Additional District Munsif Court, Srivilliputhur, seeking to injunct the third respondent to perform poojas in the temple and Samadhi also managing the administration of the temple. The said suit was dismissed. Further, the first appellate Court in A.S.No.10 of 2008 was allowed by the Sub Court, Srivilliputhur, on 21.03.2007. The defendants in the said suit preferred S.A.(MD)No.59 of 2008 before this Court and this Court dismissed the second appeal on 19.01.2012 with observations.

14. The learned counsel for the third respondent would therefore contend that when the Saliyar Community Trust has been incharge for the



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past several decades and performing religious activities, no prejudice would be caused, if the revenue documents reflect the name as Poona Samiyar Madam Nandavanam, by Saliyar Community Tharkala Trust. He would reiterate that no individual person is staking any claim or right over the subject lands and it is the only interest of the Poona Samiyar Madam and Nandavanam, which is sought to be protected. He would further rely on the decision of this Court in ***T.R.Dinakaran V. The Revenue Divisional Officer, Aruppukottai and others*** reported in 2001-3-CTC-823, where this Court held that if any person is aggrieved by an entry made in the patta passbook, in terms of Section 14 as the aggrieved person can only file a suit for declaration and thereafter, entry made in the patta pass book can be accordingly amended in terms of the decree of the competent civil Court. This Court also held that any application or modification of patta passbook can be made only under three circumstances, viz., (i) reason of death of person, (ii) reason of transfer of interest in the land and (iii) reason of any subsequent change in circumstances.



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15. Relying on the said decision, the learned counsel would submit that the revenue authorities cannot decide such complex disputes regarding title and rival claims of the parties. He would further bring to my notice that a suit, under Section 92 C.P.C., seeking for framing of a scheme for public trust has been filed before the Principal Sub Court, Srivilliputhur and subsequently, transferred to the Sub Court, Rajapalayam. That apart, the learned counsel also submit that the suit in O.S.No.331 of 1999, which has been dismissed for non prosecution is also being restored and necessary applications are being taken out in this regard. As regards reliance placed on O.S.No.295 of 1999, the learned counsel would contend that there is no nexus between the petitioner and the plaintiff in the suit and in any event the Saliyar Community was not a party in the said civil suit and therefore, the judgment and decree will not bind the third respondent. He would therefore, pray for dismissal of the writ petition.

16. I have carefully considered the submissions advanced by the learned counsel on either side. I have also gone through the order impugned in the writ petition.



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17. The first respondent has provided an opportunity to both the parties and has in great depth discussed the respective contentions of the parties and finally has come to the conclusion that the request of the writ petitioner cannot be entertained on account of no supporting documents produced by the petitioner. However, the first respondent has directed the petitioner to approach the civil Court to redress his grievance. However, a statutory remedy by way of revision is also available under Section 13 of Patta Passbook Act, to challenge the order impugned in this Writ Petition. The petitioner did not avail of this opportunity and has approached this Court under Article 226 of the Constitution of India.

18. The main ground of challenge to the impugned order passed by the first respondent is that the first respondent has ignored the decree passed in O.S.No.295 of 1999 and also the fact that the representative suit filed by the third respondent in O.S.No.331 of 1999 has been dismissed and not restored till date. Therefore, according to the petitioner, the right of the petitioner has been established up to this Court in S.A.(MD)No.59 of 2008 by judgment dated 19.01.2012 and this Court



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granted liberty to the appellants, who belonged to the Saliyar Community, to establish their right in the pending comprehensive suit in O.S.No.331 of 1999. Therefore, the contention of the petitioner that the inclusion of Saliyar Community, after the death of Ramasamy Moopanar by order dated 16.04.2001 was wholly unsustainable.

19. It is an admitted fact that the said O.S.No.331 of 1999 has been filed by the members belonging to the Saliyar Community. The said suit admittedly was dismissed on 05.12.2014, pursuant to the dismissal of the Second Appeal in S.A.(MD)No.59 of 2008 dated 19.01.2012. It is now contended that the third respondent has taken steps to restore the said suit. It is also contended that a scheme suit has also been filed to frame a scheme for management of the public trust and the same is also pending. The question appears to be as to who is entitled to administer the Trust, whether it is the petitioner, who claims through the then trustee Ramasamy Moopanar, whose name was reflected in the patta, or whether it is the Saliyar Community and whose name should be reflected in the patta. Admittedly, the patta was originally mutated in the name of Poona Samiyar Madam Nandavanam, represented by Trustee Ramasamy



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Moopanar in patta No.497. However, the subsequently patta came to be mutated in the name of Poona Samiyar Madam Nandhavanam Saliyar Samoogam by order of the second respondent dated 16.04.2001.

20. It is the grievance of the petitioner that the petitioner Trust or its Trustees were not put on notice before the said order dated 16.04.2001 came to be passed. However, admittedly, patta has been mutated in the name of Poona Samiyar Madam Saliyar Samoogam as early as on 16.04.2001 and for more than two decades no steps have been taken to challenge the said mutation. It is an admitted case that Ramasamy Moopanar, who was originally representing the Madam is also no more. It is further contended by the learned counsel for the third respondent that there is absolutely no nexus between Ramasamy Moopanar and Harihara Bharathi, who now claims to be the Trustee of Rajapalayam Poona Samiyar Madam Nandavanam Dhandayuthapani Thirukovil.

21. Even insofar as the patta No.497, it stood only in the name of Poona Samiyar Madam, represented by then Trustee, Ramasamy Moopanar. Therefore, it is not a case where the name of the Trust has



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been deleted or omitted. Therefore, as already stated above, the dispute is only with regard to the right of administration / management of the said Madam and both parties cannot have a grievance of patta being mutated in the name of Poona Samiyar Madam Nandavanam.

22. Admittedly, a Section 92 suit is pending and further steps are also being taken to restore in O.S.No.331 of 1999. Even this Court while disposing of the second appeal which arose under the suit for permanent injunction held that the plaintiffs therein, namely, Rajapalayam Poona Samiyar Madam Nandavanam Saliyar Community, Tharkala Trust represented the President Trust, Murugaboopathi was entitled to permanent injunction as sought for in the plaint. This Court also took note of the suit in O.S.No.331 of 1999. The present plaintiff in the said suit, succeeded in getting a relief of permanent injunction against private individuals, is the writ petitioner herein.

23. However, it is not known whether the petitioner Trust is properly represented by its Trustee for which no documents have been filed by the writ petitioner. Normally, the mere fact that the suit for



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permanent injunction was decreed up to this Court against private individuals may not bind the entire Community. However, a specific issue was framed in the said suit as to whether the five villagers Saliyar Community was maintaining the temple. The trial Court found against and a direction was issued in favour of the petitioner. It is further interesting to note that on 23.09.1999, the request of the third respondent for issuing patta to include the name of Saliyar Community was rejected citing pending of O.S.No.295 of 1999. However, it is not known how despite pendency of the said suit at the relevant point of time, the patta was changed to include the name Saliyar Community, within a span of two years, on 16.04.2001. In fact copy of the order dated 16.04.2001 has been marked to K.Vaidhyalingam, who appears to be the same Vaidhyalingam, the first defendant in O.S.No.295 of 1999. In any event, when the very same authority had rejected the request for mutation of patta seeking inclusion of Saliyar Community representing Poona Samiyar Madam in the revenue records, citing pending O.S.No.295 of 1999, without any final decision that was arrived in the said suit, the subsequent order came to be passed accepting the request of Saliyar Community. Therefore, at least from the earlier rejection order dated



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23.09.1999, the third respondent and his members would have known about the pendency of suit in O.S.No.295 of 1999 and therefore, it cannot be contended that the suit in O.S.No.295 of 1999 would not bind the third respondent. Further, while passing orders on 16.04.2001, no notice has been issued to the writ petitioner, despite specific reference to pendency of suit in O.S.No.295 of 1999 in the earlier rejection order dated 23.09.1999. Therefore, all is not well with regard to the mutation of patta, including the name of Saliyar Community, namely, the third respondent.

24. As rightly contended by both the counsel for the petitioner as well as the third respondent, the dispute only revolves around the right of petitioner Trust or the third respondent Samoogam to administer or manage the subject properties. The issue cannot be decided by the revenue authorities or by the Writ Court exercising jurisdiction under Article 226 of the Constitution of India. When the exercise of mutation of patta from the name of Ramasamy Moopanar to Samoogam is bound to be in violation of principles of nature justice and also without any explanation as to how when the application having been already



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rejected, a subsequent order came to be passed by the very same authority, without even affording an opportunity to the writ petitioner. Therefore, the said order passed on 16.04.2001, ordering mutation of patta in the name of the third respondent is liable to be set aside. The petitioner Trust was represented by its Trustee, Murugaboopathi in O.S.No.295 of 1999. However, as rightly pointed out by the learned counsel for the third respondent, as on date, there is no proof of show the entitlement of Hariharabharathi to represent the petitioner Trust. If really the parties, viz., the petitioner and the third respondent, are really interested, *bonafide* only in furtherance of the objects of the Poona Ganapathy Yogeshwarar Swamy, then the party should not be really worried about the mutation of patta in the name of the Madam. Insofar as the rights to administer and manage the Madam / Trust, the competent Civil Court alone can decide the issue.

25. Having found that there has been an improper exercise of mutation to include the name of the third respondent by removing the name of Ramasamy Moopnar and also in view of the fact that the present Trustee have not also been able to show any iota of as his entitlement to represent the Trust, considering the decree in O.S.No.295



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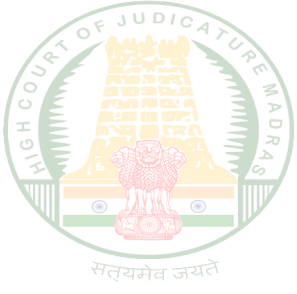
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of 1999, it would be just and proper to set aside the impugned order of the first respondent and direct the patta to be mutated in the name of Poona Samiyar Madam Nandavanam represented by Ramasamy Moopanar, since both the petitioner as well as the third respondent are admitting the said position of Ramasamy Moopanar being a Trustee of the Madam and patta No.497 was issued to the Madam. It shall be open to the petitioner and the third respondent, to approach the competent civil Court, including having the original suit in O.S.No.331 of 1999 restored and then approached the authority, seeking mutation of the patta accordingly, subject to the final outcome of the civil proceedings.

26. In fine, this Writ Petition is therefore allowed and the order passed by the first respondent dated 14.07.2022 is set aside and the patta shall be restored in the name of Poona Samiyar Madam Nandavanam represented by its Trustee, subject to the final decision of the suit in O.S.No.331 of 1999 as well as the scheme suit. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes / No
NCC : Yes / No
LS

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TO:-

- 1.The Revenue Divisional Officer,
Sathur,
Virudhunagar District.
- 2.The Special Officer,
cum Special Tahsildar,
Town Re-survey Settlement (Natham)
Rajapalayam,
Virudhunagar District.
- 3.Arumugaperumal
President of Saliyar Community,
Angaiah Raja Street,
Rajapalayam,
Virudhunagar District.



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P.B. BALAJI, J.

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Pre-delivery Order made in
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Dated:
25.03.2025