



W.P.(MD)No.15076 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.04.2025

CORAM:

THE HONOURABLE MR JUSTICE P.B. BALAJI

WP(MD)No.15076 of 2018

T.Nelson Sam

... Petitioner

Vs.

1. The District Collector

Nagercoil,

Kanyakumari District.

2. The Tahsildar

Kalkulam Taluk, Thuckalay,

Kanyakumari District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to allot some other the property in proportion to the properties where the Government buildings are situated in the shares allotted to the petitioner as per the decree in O.S.No.108 of 1983 on the files of the Additional District Munsif padmanabhapuram within a time frame that may be stipulated by this Court by considering the representation dated 25.09.2017.

For Petitioner : Mr.S.C.Herold Singh

For Respondents : Mr.S.Kameswaran
Additional Government Pleader



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ORDER

The petitioner has filed the present writ petition seeking issuance of writ of mandamus, to direct the respondents to allot alternate property measuring 15 cents in terms of the judgment and decree in O.S.No.108 of 1983 on the file of the Additional District Munsif Court, Padmanabhapuram. The petitioner has given a representation dated 25.09.2017, in this regard.

2. I have heard the learned counsel on either side.

3. The learned counsel for the petitioner would take me through the judgment in O.S.No.108 of 1983, which came to be confirmed by the First Appellate Court in A.S.Nos.55, 67 and 105 of 1995 by common judgement and decree dated 19.01.2001. The learned counsel for the petitioner would also invite my attention to the dismissal of the second appeal attempted by the official respondents in S.A.(MD)No.SR18221 and 18227 of 2005. This Court dismissed the second appeals even at the SR stage. The petitioner has thereafter given a representation on



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25.09.2017, seeking assignment / allotment of 15 cents as directed by the competent Civil Court, which decree came to be confirmed up to this Court in second appeal proceedings.

4. The learned Government Advocate for the respondents, on written instructions, submits that the petitioner can approach the competent Civil Court and seek remedy.

5. I am unable to countenance the said submissions of the learned Government Advocate for more than one reason. The trial Court found that the Government has already utilised 15 cents of land and proceeded to hold that the said lands need not be disturbed and the petitioner can be compensated either in monetary terms or by providing 15 cents of alternate land in a suitable locality, of equal value. The said judgment was taken up on appeal by the respondents unsuccessfully and the second appeal was also dismissed by this Court, even at the stage of delay. I find that the suit was originally decreed way back on 17.02.1993 and the second appeal also, at the SR stage, came to be dismissed on 28.06.2010. We are in 2025. It is really unfortunate that despite the



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directions of the competent civil Court by way of decree, the respondents have not come forward to obey the judgment of the competent Civil Court. The respondents are hereby directed to allot 15 cents by way of alternate / lands to the petitioner, ensuring that the said lands are of more or less equal value of the lands measuring 15 cents , in respect of which Government buildings have been constructed already. The said exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order.

6. This Writ Petition is disposed of. There shall be no order as to costs.

Index : Yes / No
NCC : Yes / No
LS

15.04.2025

To

1. The District Collector
Nagercoil,
Kanyakumari District.



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2. The Tahsildar

Kalkulam Taluk,

Thuckalay,

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P.B. BALAJI, J.

LS

Order made in
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Dated:
15.04.2025