

W.A(MD)No.843 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 14.07.2025

CORAM

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

**W.A(MD)No.843 of 2025
and
C.M.P(MD)Nos.5567 & 7914 of 2025**

Sujatha

... Appellant /
3rd Party

Vs.

1.Kamaraj Chinnadurai

... 1st Respondent /
Writ Petitioner

2.The District Collector,
O/o.The Collector,
Sivagangai District.

3.The Tahsildar,
O/o.The Tahsildar,
Manamadurai Taluk,
Sivagangai District.

4.The Head Surveyor,
O/o.The Head Surveyor,
Manamadurai Taluk,
Sivagangai District.

... Respondents 2 - 4 /
Respondents 1 - 3



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Prayer: Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order passed in W.P(MD)No.13143 of 2023 dated 07.06.2023 and allow the Writ Petition.

For Appellants : Mr.M.Mahaboob Athiff

For Respondents : Mr.G.Prabhu Rajadurai
for Mr.S.M.A.Jinnah for R.1

Mr.N.Satheesh Kumar
Additional Government Pleader
for R.2 to R.4

JUDGMENT

(By G.R.SWAMINATHAN, J.)

Heard both sides.

2.K.Sakkarai Thevar owned one acre and one cent of land in Survey No. 2/2C, Manamadurai Town, Sivagangai District. The said K.Sakkarai Thevar sold 50 cents of land in favour of one Kathamuthu and his brother Nagarajan vide sale deed dated 09.09.1984. He subsequently sold a further extent of 25 cents in favour of Kathamuthu vide sale deed dated 31.03.1985.

3.It is beyond dispute that K.Sakkarai Thevar retained the remaining extent of land. K.Sakkarai Thevar passed away on 05.08.1985. While so Thiru.Tamilselvan, S/o.Sarkarai Thevar sold 25 cents of land in the said survey



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number in favour of Kamaraj Chinnadurai / writ petitioner herein. Kamaraj

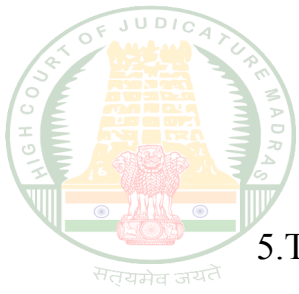
Chinnadurai filed W.P(MD)No.13143 of 2023 for directing the revenue authorities to survey his land. The learned single Judge vide order dated 07.06.2023 disposed of the Writ Petition in the following terms:

“3. A direction is given to the respondents 2 and 3 herein to act in accordance with the application given by the petitioner herein and complete the entire exercise of surveying the lands and fixing the boundaries within a period of eight weeks from the date of receipt of a copy of this order.”

Aggrieved by the same, this third party Writ Appeal has been filed by one Sujatha who is the daughter of Kathamuthu Pillai.

4.The case of the appellant is as follows:

Nagarajan / co-predecessor had released his share in the property in favour of his brother Kathamuthu. During his life time, Kathamuthu executed a settlement deed in favour of his wife Sundari. Since Kathamuthu had proper legal title only over 75 cents of land, he could have settled only the said extent in favour of Sundari. Instead, while executing settlement deed dated 07.08.2006, he purported to settle one acre of land. Sundari in turn settled the said one acre of land in favour of the appellant Sujatha vide document dated 16.07.2007.



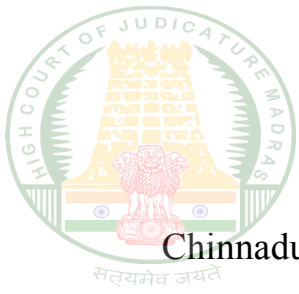
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5.The appellant on the strength of the said settlement deed constructed a building measuring abutting Sivagangai – Manamadurai road. The appellant had obtained approvals from the local body. She had also obtained electricity connection in her name and the property was also assessed to property tax. The appellant was also running a business in the said premises. A portion of the same was also let out to an e-seva kendra.

6.In this factual background, Kamaraj Chinnadurai on the strength of the survey order of this Court proceeded not only to conduct a survey but also took physical possession of the building put up by the appellant herein. Survey had taken place on 01.07.2023.

7.It is also seen Kamaraj Chinnadurai has subsequently filed O.S.No.55 of 2024 on the file of District Munsif Court, Manamadurai seeking the relief of declaration and permanent injunction.

8.We are more than satisfied that the appellant can have title only over 75 cents of land in Survey No.2/2C1 and not over the entire one acre. At the same time, we have to necessarily observe that the appellant was in physical possession of the building referred to above. If according to Kamaraj



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Chinnadurai, the building had been put up in a site on which the appellant had no title, then the only remedy open to Kamaraj Chinnadurai was to seek recourse to law. He has to necessarily obtain a decree for possession. He could not have on his own taken over possession of the same. We therefore direct Kamaraj Chinnadurai to forthwith hand over possession to Sujatha as far as the building portion is concerned.

9. In fact, Kamaraj Chinnadurai was fully aware of the appellant's claim. He had earlier moved the District Registrar for getting the gift deed in favour of the appellant nullified. The District Registrar passed an order on 16.02.2023. Therefore, Kamaraj Chinnadurai ought to have impleaded Sujatha when he filed W.P(MD)No.13143 of 2023. The writ petition filed by Kamaraj Chinnadurai suffered from the vice of non-joinder of the necessary parties. On this sole ground, we set aside the order dated 07.06.2023 made in W.P(MD)No. 13143 of 2023. All the steps that had taken place pursuant to the said order stand nullified and they shall be reversed. In other words, the position that obtained in respect of the petition mentioned building as far as the property tax assessment and electricity connection will stand restored in favour of the appellant. The revenue record also will reflect the name of the appellant. The appellant undertakes not to deal with the property till the disposal of the civil



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suit. The writ petitioner has to work out his rights in the pending civil suit.

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The tenant currently occupying the petition mentioned building is directed to vacate the premises within a period of 4 weeks from the date of receipt of a copy of this order. The contentions of both the parties are left open and it is for the civil Court to decide the issue based on the evidence adduced before it uninfluenced by the observations made herein.

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

[G.R.S., J.] [K.R.S., J.]
14.07.2025

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

To

1.The District Collector,
O/o.The Collector,
Sivagangai District.

2.The Tahsildar,
O/o.The Tahsildar,
Manamadurai Taluk,
Sivagangai District.



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and

K.RAJASEKAR, J.

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3.The Head Surveyor,
O/o.The Head Surveyor,
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