



W.P.(MD)No.22855 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **13.03.2025**

CORAM:

THE HONOURABLE MR JUSTICE P.B. BALAJI

W.P.(MD) No.22855 of 2023
and
W.M.P.(MD) No.19096 of 2023

K.Murugan

... Petitioner

/Vs./

1.The Tahsildar,
Periyakulam Taluk,
Theni District.

2.V.Selva Ganesh

3.V.Suresh
(R2 and R3 have been impleaded vide
order dated 06.03.2025)

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order bearing O.Mu.No. 3072/2019/Aa1 dated 02.12.2019 on the file of the Respondent and quash the same as illegal and consequently direct the Respondent to implement the order bearing Na.Ka.No.111/2018/Aa1 dated 17.09.2018 within a time



W.P.(MD)No.22855 of 2023

stipulated by this Court.

For Petitioner : Mr.R.Shankar Ganesh
For R1 : Mr.M.Lingadurai
Special Government Pleader
For R2 & R3 : Mr.S.Sivathilakar

ORDER

The petitioner challenges the impugned order of the first respondent/Tahsildar in O.Mu.No. 3072/2019/Aa1 dated 02.12.2019.

2.Heard Mr.R.Shankar Ganesh, learned counsel for the petitioner, Mr.M.Lingadurai, learned Special Government Pleader for the first respondent and Mr.S.Sivathilakar, learned counsel for the second respondent.

3.The case of the petitioner is that the land, measuring an extent of 13 ares, comprised in S.No.1243/1 was originally belonging to one Andichamy. The said Andichamy in and by sale deed dated 20.12.1991 alienated the said property in favour of R.Chellachamy, S/o.V.Ramasamy Gounder and from the said R.Chellachamy, the petitioner has purchased



W.P.(MD)No.22855 of 2023

WEB COPY

the subject property, by registered sale deed dated 26.12.2000 on the file of Sub Registrar Office, Theni.

4.The case of the petitioner is that S.No.1243/1 has been subdivided subsequently as S.No.1243/1A, comprising 18 ares, S.No. 1243/1B comprising 1.3 ares and S.No.1243/1C, comprising 6.5 ares. We are now concerned with S.No.1243/1A, comprising 18 ares.

5.The case of the petitioner is that the names of respondents 2 and 3 have been wrongly included in the patta issued to the petitioner and therefore, he sought for removing the said names and issuing a fresh patta in his favour. The Tashildar, by proceedings dated 17.09.2018, directed mutation of patta in the petitioner's name after removing the names of the respondents 2 and 3 and issuing seperate patta to the petitioner. The petitioner made a representation to the first respondent on 15.07.2019, since the earlier order dated 17.09.2018 had not been implemented. However, the first respondent directed the petitioner to approach the Revenue Division Officer, Periyakulam, by preferring an appeal.



W.P.(MD)No.22855 of 2023

WEB COPY

6. According to the petitioner, the petitioner approached the first respondent only by way of a representation seeking implementation of the order dated 17.09.2018 and he never intended to challenge or dispute the order passed on 17.09.2019. Therefore, the petitioner challenges the impugned order contending that he never preferred an appeal in the first instance.

7. The learned counsel for the petitioner submits that in so far as the claim of the respondents 2 and 3, the petitioner has no dispute over the 4800 sq.ft., purchased by the respondents 2 and 3, which is comprised in S.No.1243/1A2, having an extent of 5 ares. The petitioner restricts his right only to the remaining property in S.No.1243/1A1, comprising 13 ares. Admittedly, when the petitioner does not dispute the entitlement or right of the respondents 2 and 3 and the issue is relating to the demarcation of the respective properties of the petitioner and the second respondent, the issue will be resolved if a survey is directed to be conducted and the boundaries are demarcated setting apart the 4800 sq.ft., purchased by the respondents 2 and 3, by sale deed dated



W.P.(MD)No.22855 of 2023

WEB COPY

12.06.2014 and also having become entitled to a portion of the said property in and by a settlement deed dated 12.06.2014, tracing title to an earlier document in sale deed dated 18.03.1994. Admittedly, the petitioner has purchased the property, subsequent to the purchase made by the vendor of the respondents 2 and 3.

8.Considering the above, the Writ Petition is disposed of in the following lines.

i) The first respondent shall conduct a survey and demarcate the property of respondents 2 and 3 measuring 4800 sq., ft., comprised in S.No.1243/1A2.

ii) On such demarcation of the property of the respondents 2 and 3, whatever remains shall be the property, which the petitioner shall be entitled to.

iii) In the event of there being any dispute with regard to the property itself being identified, when the survey is conducted by the respondent, then it shall be open to the petitioner to approach the competent civil Court, considering the fact that he claims title under a vendor, who purchased the property subsequent to the purchase made by



W.P.(MD)No.22855 of 2023

the vendor of the respondents 2 and 3 even as early as in 1994.

iv) The said exercise shall be concluded within a period of 8 weeks from the date of receipt of a copy of this order.

v) It is made clear that both the petitioner and the respondents 2 and 3 shall cooperate with the first respondent for conducting peaceful survey and demarcating the property as directed herein above. It is also made clear that the first respondent shall not postpone or refuse to conduct the survey on the ground that the boundary stones are not available in the site and the survey shall be conducted based on the registered documents in favour of the respective parties.

No costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes / No
NCC : Yes / No
mm

13.03.2025

TO:-

The Tahsildar,
Periyakulam Taluk,
Theni District.



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W.P.(MD)No.22855 of 2023

P.B. BALAJI, J.

mm

Order made in
W.P.(MD)No.22855 of 2023

Dated:
13.03.2025