BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :**15.09.2025**

CORAM:

THE HONOURABLE MR JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P(MD)No.23535 of 2025 &
W.M.P.(MD)Nos.18487 & 18488 of 2025

S.Rajendran ... Petitioner

Vs

1.The Headquarters Deputy Tahsildar,
O/o.The Head Office of Tahsildar,
Nilakottai Taluk, Dindigul District.

2.Sivakumar

3.M/s.Selvamani Investment,
Partnership firm,
Represented by its Managing Partner,
Having Office at,
No.9/2, Gandhipuram West,
Sengunthapuram Post,
Karur - 639 002. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records of the Impugned order passed by the 1st respondent herein in 2025/0103/13/385012TR dated 19.06.2025 and quash the same as illegal and in gross violation of the principles of natural justice and consequently direct 1st respondent to restore the Patta No.2478 in respect of S.No.643/5 measuring an extent of 3 acres 34 cents in Pallapatti Village, Nilakkottai Taluk, Dindigul District in the name of the writ petitioner.

For Petitioner	:	Mr.V.Meenakshisundaram
For Respondents	:	Mrs.K.Malathi, Additional Government Pleader for R1 Mr.A.N.Ramanathan for R3

O R D E R

By sale deed dated 09.06.2011, six items of property, including land in S.No.643/5 of an extent of 1.35 hectares, were conveyed by the petitioner to the third respondent. Thereafter, attachment order dated 21.10.2016 was issued by the Income Tax Department in respect of the above mentioned six items of property. By order dated 04.01.2019, the attachment was raised in respect of five items of property excluding three survey numbers, which included S.No.643/5. Shortly thereafter, on 05.03.2019, the third respondent reconveyed five items of the property forming the subject of earlier sale deed dated 09.06.2011 to and in favour of the petitioner. By order dated 17.07.2025, the second and third respondents' request for survey was directed to be considered and disposed of. By subsequent order dated 06.08.2025 in W.P.(MD)No. 18196 of 2025, the Income Tax Department was directed to consider and dispose of the representation of the second and third respondents to raise the attachments in respect of S.No.643/5. A few months prior thereto, on the application of the second and third respondents, the impugned order was issued by the Tahsildar transferring the patta in respect of S.No. 643/5 in the name of the second respondent. The present writ petition was filed in these facts and circumstances.

2. Learned counsel for the petitioner invited my attention to sale deed dated 09.06.2011 and thereafter to the subsequent sale deed dated 05.03.2019. He submits that the subsequent sale deed records that the earlier sale deed was executed by way of security for a loan taken by the petitioner from the third respondent. Although the sale deed dated 05.03.2019 only deals with five items of property and not with the land in S.No.643/5, he submits that this was on account of the order dated 04.01.2019 raising the attachment only in respect of those five items. In

effect, his contention is that there is an obligation on the financier to reconvey the property to the petitioner upon receipt of full repayment. He further submits that the impugned order was issued without notice to him and that if he had been put on notice, the Tahsildar would have been apprised of the nature of the sale in favour of the third respondent and about the income tax attachment operating against the property. He further submits that the Tahsildar would also have been informed about the challenge to the validity of sale deed dated 09.06.2011 in the pending civil suit.

3. Learned counsel for the second respondent refutes these contentions. By referring to the sale deed dated 05.03.2019, he states that it expressly deals with only the items of property described in the schedule thereto and not with the land in S.No.643/5. He also submits that the second respondent is entitled to a mutation of the patta in his favour in view of the registered sale deed standing in his name. As regards the pending civil suit, he submits that it has been filed by other members of the petitioner's family and not by the petitioner.

4. Learned Additional Government Pleader for the first respondent

submits that the mutation was effected by the Tahsildar because the application was made by the purchaser of the property under sale deed dated 09.06.2011. Therefore, he contends that no inference is called for with the impugned order.

5. On perusal of sale deed dated 09.06.2011, whether examined on *ex facie* or *prima facie* basis, it does not disclose any elements of a mortgage by conditional sale or an English mortgage. When the said document is read with subsequent sale deed dated 05.03.2019, doubts arise as to the nature of the transaction between the petitioner and the private respondents. It should also be noticed that the third respondent is a financier and sale deed dated 05.03.2019 records that a loan was availed of by the petitioner from the third respondent and that the properties described in the schedule to the said sale deed were offered as security in respect there of. In these summary proceedings, it is neither necessary nor appropriate to record any definitive conclusion with regard to the nature of the transaction between the petitioner and the private respondents.

6. A civil suit for partition has been filed by members of the

petitioner's family before the I Additional District Judge, Madurai in O.S.No.124 of 2016. One of the remedies requested for in the said suit is a declaration that sale deed dated 09.06.2011 is null and void.

7. Sale deed dated 09.06.2011 clearly covers the property in S.No. 643/5. In view thereof, it would be unjust to set aside the impugned order and restore the name of the petitioner in the patta. At the same time, it should be recognized that members of the petitioner's family have challenged the said sale deed. The petitioner asserts that the transaction entered into in 2011 was not in the nature of an absolute sale and was by way of security for the borrowing from the third respondent. The Income Tax Department attached all six items of property in 2016 and raised such attachments in respect of five items on condition that the attachment would continue with regard to three items, including the land in S.No. 643/5. Upon consideration of these aspects, it is just and appropriate that the Tahsildar be restrained from effecting any further mutation of the patta relating to S.No.643/5 until the validity of the sale deed dated 09.06.2011 is decided by the jurisdictional Civil Court. It is also necessary that before considering any request for mutation in patta in

relation to this property, the Income Tax Department be put on notice. The parties are granted leave to reapply if there is a material change in circumstances. The I Additional District Judge, Madurai is directed to dispose of O.S.No.124 of 2016 as expeditiously as the business of the Court would allow. The Writ Petition is disposed of on these terms with no order as to costs. Consequently, the connected Miscellaneous Petitions are closed.

NCS : No
Index : No
Internet : Yes

15.09.2025

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To

The Headquarters Deputy Tahsildar,
O/o.The Head Office of Tahsildar,
Nilakottai Taluk, Dindigul District.

SENTHILKUMAR RAMAMOORTHY, J.

mbi

ORDER MADE IN

W.P(MD)No.23535 of 2025

15.09.2025