



W.P.(MD)No.17262 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.09.2025

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD)No.17262 of 2017

and

W.M.P(MD)Nos.13816 & 13817 of 2017

V.J.T.Vincent

.. Petitioner

Vs.

1.The Commissioner,
Bodinayakanur Municipality,
Bodinayakanur,
Theni District.

2.S.Abdulpari

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the notice made in Pe.Ma.Vi.No.190/2016/A1 dated 21.07.2017 issued by the 1st respondent and quash the same and consequently direct the 1st respondent to cancel the property tax assessment orders made in Pa.Ko.51/Pe.Ma.Ma.No.190/2016/A1 dated 10.08.2016 and Pa.Ko.51/Pe.Ma.Ma.No.190/2016/A1 dated 12.08.2016 passed by the 1st respondent in accordance with law within time stipulated by this Court.



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For Petitioner : Mr.M.Kaliraj
For R1 : Mr.A.Kannan
For R2 : Mr.H.Mohamed Imran
for M/s.Ajmal Associates

ORDER

This writ petition is filed for the following relief :

to call for the records pertaining to the notice made in Pe.Ma.Vi.No.190/2016/A1 dated 21.07.2017 issued by the 1st respondent and quash the same and consequently direct the 1st respondent to cancel the property tax assessment orders made in Pa.Ko.51/Pe.Ma.Ma.No.190/2016/A1 dated 10.08.2016 and Pa.Ko.51/Pe.Ma.Ma.No.190/2016/A1 dated 12.08.2016 passed by the 1st respondent in accordance with law within time stipulated by this Court.

2. The brief facts as set out in the affidavit filed in support of the writ petition is herein below briefly set out :

2.1 The property comprised in T.S.No.1/37, Melachockanathapuram Village, Bodinayakanur Town, Theni District



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belong to the petitioner's father, V.J.Thomas, who was the absolute owner of the property by virtue of his continuous possession and enjoyment of the property. Taking into account his continuous possession of the property, patta was issued in favour of his father as early as on 17.04.1962 by the settlement authorities and the same was confirmed by the Director of Survey and Settlements on 28.02.1976. Ultimately, the Assistant Settlement Officer, Chennai confirmed the possession and enjoyment of the above said property and the ownership of his father vide proceedings, dated 22.03.2012.

2.2 The petitioner would submit that his father had put up construction in the said property and was residing there. On 24.06.1972, he had passed away leaving behind him surviving the petitioner's mother, six sons including the petitioner and four daughters as his legal heirs. Thereafter, the property was mutated in the name of the petitioner's mother she being the eldest member of the family on 22.03.2012.

2.3 The petitioner would submit that he was working as a Farm



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Manager, Spices Board in Kerala. On his superannuation in the first week of May 2014, he had requested his mother and brothers to effect partition of the property and allot him his 1/11th share. Since they did not come forward to do so, the petitioner was constrained to file a suit for partition in O.S.No.148 of 2014 seeking 1/11th share in the joint family property. The petitioner would submit that his mother is in possession and management of the property only for and on behalf of all the other legal heirs and does not have an individual or exclusive right to the property.

2.4 The petitioner would submit that while the suit was pending trial, the 2nd respondent attempted to interfere in the possession and enjoyment of the property. The petitioner, his brothers and other tenants had restrained them from entering into the property. It is at that point in time that they came to learn that one of the petitioner's sisters Rani had fraudulently fabricated the Municipality's records and emblem and using this fabricated document, created a sale deed in favour of the 2nd respondent which was registered on the file of the Sub Registrar,



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Bodinayakanur in Document No.2561/2016. The fraud came to light when the petitioner had requested for production of the original records under the Right to Information Act. The Municipality at that point of time, came to know that the documents were fabricated and they had enquired into the same. However, the said officer had not taken any action. Meanwhile, the petitioner's sister also managed to get a settlement deed executed by the mother in favour of the daughters. This has been done despite the fact that the petitioner's mother did not have an exclusive right over the property and any document created by her is not valid and binding.

2.5 It appears that on the basis of this settlement deed, the sisters had got the Municipality records mutated in their favour. The petitioner also came to learn that on the basis of the fabricated document of the 1st respondent Municipality, the 2nd respondent had obtained assessment order in his name. The petitioner had made an application for cancellation of the assessment orders. Despite several representations, the petitioner's request was not being considered. Ultimately, by a reply



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dated 21.07.2017, the 1st respondent refrained from passing orders stating that W.P(MD)No.3184 of 2017 was pending. Challenging this order, the petitioner has filed this writ petition.

3. Heard the learned counsels on either side.

4. It is the petitioner's case that W.P(MD)No.3184 of 2017 was filed seeking to quash the sale deed executed in favour of the 2nd respondent and to delete all entries relating to the same in the registers maintained by the respondents therein. In the said writ petition, *status quo* was directed to be maintained. Meanwhile, the suit for partition filed by the petitioner came to be decreed on 27.04.2022. The learned Judge had held that the mother was only entitled to 5/15th share and the settlement deed executed for a larger extent was not maintainable. The order of injunction was also passed restraining further alienation. The 2nd respondent had been arrayed as the 28th defendant in the suit. The same was challenged by the 2nd respondent by filing A.S.No.25 of 2022 and by the petitioner by filing A.S.No.27 of 2022 questioning the share that had



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been allotted in the preliminary decree. By judgment, dated 11.08.2025, the suit filed by the 2nd respondent has been dismissed and the suit filed by the petitioner was allowed and the learned Judge had held that the plaintiff and defendants 2 to 10 were each entitled to a 1/9th share in the property. The petitioner would submit that final decree proceeding is going to be filed. That being the case, the assessment orders in respect of the suit property cannot be held in the exclusive name of the 2nd respondent as he is only one of the sharers of the property. Therefore, the impugned order has to necessarily be set aside and the same is set aside. The 1st respondent is directed to await the final decree proceedings and thereafter, transfer the property in the names of the respective sharers.

5. In view of the above, this Writ Petition stands allowed. No costs.

Consequently, connected Miscellaneous Petitions are closed.

25.09.2025

NCC : Yes/No

Index : Yes/No

Internet : Yes

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P.T.ASHA, J.

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To

The Commissioner,
Bodinayakanur Municipality,
Bodinayakanur,
Theni District.

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25.09.2025