



W.P(MD)No.29268 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 12.11.2025

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.29268 of 2025

and

W.M.P(MD)No.22629 of 2025

1.S.P.V.Pachaimuthu
2.S.P.V.Parvathi
3.M.Selvi
4.S.P.V.Murugesan

... Petitioners

Vs.

1.The District Collector,
Sivagangai District,
Sivagangai.

2.The District Revenue Officer,
Sivagangai District,
Sivagangai.

3.The Revenue Divisional Officer,
Sivagangai District,
Sivagangai.

4.The Tahsildar,
Sivagangai District,
Sivagangai.



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5.Renganayagi
6.Velliyammai
7.Chithamparam
8.Sowmiyamoorthy
9.Rajavel Udaiyapan
10.Nagarmoorthy
11.Palaniyapan
12.Thiyagalingam
13.Supaseetha

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the entire records in connection with the impugned order of the second respondent in ALR/5774/2025 dated 04.09.2025 quash the same as illegal.

For Petitioners : Mr.D.Anbarasu

For Respondents : Mr.S.Kameswaran
Government Advocate
for R.1 to R.4

Mr.Raguvaran Gopalan
for R.5 & R.6

Mr.I.Senthil Kumariah
for R.7

Mr.R.Venkateswaran
for R.8 to R.13

ORDER

Heard both sides.



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2.The writ petitioners challenge the impugned order dated 04.09.2025 passed by the District Revenue Officer, Sivagangai. The writ petitioners' herein had submitted petition before the District Revenue Officer, Sivagangai seeking to record their names as cultivating tenants in respect of the petition mentioned property. Since the said application was not considered, they filed W.P(MD)No.1122 of 2023. This Court vide order dated 22.01.2025 disposed of the writ petition in the following terms:

“3.Without expressing any opinion on the merits of the Writ Petition, the second respondent is directed to issue notice to the petitioners and the respondents 4 to 6 and conduct an enquiry and also affording an opportunity of hearing to them and pass orders, on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order.”

3.The prayer in the said writ petition is as follows:

*“**PRAYER:** Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the respondents to record the petitioners as cultivating tenants in the properties in S.No.16/3C to an extent of 0.36.5 acres, S.No.73/6 to an extent of 0.695*



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Acres, S.No.80/18 to an extent of 0.41.5 Acres of Punjai lands and the properties in S.No.171/1 to an extent of 0.5.50 Acres, S.No.171/2B to an extent of 0.7.00 Acres, S.No.171/3 to an extent of 0.37.50 Acres, S.No.168/2B and S.No.171/5 to an extent of 0.02.50 Acres of Nanjai land situated at Madagupatti Village, Sivagangai Taluk and District within the time stipulated by this Court.”

4.Before the District Revenue Officer, a supplemental petition was filed, calling upon the District Revenue Officer to correct the UDR error said to have occurred in respect of the petition mentioned property. The District Revenue Officer rejected the writ petitioners' petition and relegated them to go before the jurisdictional civil Court.

5.The question that calls for consideration is whether the order of the District Revenue Officer requires interference. I went through the petitions filed by the writ petitioners before the District Revenue Officer. The petitioners want to be recorded as cultivating tenants. They rest their entire case on the premise that since S.P.Vairavan was recorded as a cultivating tenant way back in the year 1996, following his demise, the writ petitioners, as his legal heirs, ought to be recorded as cultivating tenants. The writ petitioners have not taken note of one elementary fact.



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The leasehold right as a cultivating tenant, per se, is neither assignable nor inheritable. It is a personal right conferred by statute. This legal position has been settled by the Madras High Court by a catena of decisions. Vide order dated 31.07.2024 in W.P(MD)No.27604 of 2023, I had held as follows:

“7.Three statutes are relevant namely, Tamil Nadu Cultivating Tenants Protection Act 1958, Tamil Nadu Agricultural Lands Record of Tenancy of Rights, 1969 and Tamil Nadu Public Trusts (Regulation of Administration of Agricultural Lands) Act, 1961. The definition of the term “cultivating tenant” is the same in all the three statutes. I need not undertake a detailed examination because the issue stands concluded vide order dated 23.06.2017 made in W.P. (MD)No.13583 of 2010 (V.Sornam Achi and Another V. The Tahsildar, Ponnamaravathy Taluk and Others). Paragraph Nos. 6, 8 and 9 of the said order read as follows:-

“6.It is also seen from the records that the fourth respondent after having obtained an order, recording his name as a tenant, has chosen to alienate his right under a registered sale deed. It is not known as to how the said sale deed was registered. The Sub-Registrar of Ponnamaravathi has also been made a party to this Writ Petition. There is also a prayer for mandamus to cancel



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the sale deed executed by the fourth respondent in favour of the fifth respondent. It is common knowledge that the Tenancy Rights are not alienable. While sub-letting is permitted a complete transfer of tenancy right is prohibited. It should also be pointed out that the respondents 1 and 6 had jointly filed an application in M.P.No.1 of 2011 to vacate the stay granted in this case.

...

8.Thus even after knowing the position of law, the sixth respondent/The Sub Registrar has chosen to register the sale deed. Section (2)(aa) of the Tamil Nadu Cultivating Tenants Protection Act, 1922 defines a cultivating tenant as follows:

“2. Definitions.- In this Act, unless the context otherwise requires-

(a)

(aa) “Cultivating tenant”..

(i) means of person who contributes his own physical labour or that of any member of his family in the cultivation of any land belonging to another, under a tenancy agreement, express or implied; and

(ii) includes –

(a) any such person who continues in possession of the land after the determination of the tenancy agreement;



(b) the heir of such person, if the heir contributes his own physical labour or that of any member of his family in the cultivation of such land;

(c) a sub-tenant if he contributes his own physical labour or that of any member of his family in the cultivation of such land; or

(d) any such sub-tenant who continues in possession of the land notwithstanding that the person who sublet the land to such sub-tenant ceases to have the right to possession of such land; but

(iii) does not include a mere intermediary or his heir;”

9.From the above definition, it is clear that the purchaser of tenancy rights cannot be a cultivating tenant under the Act. Therefore there is an implied prohibition against the cultivating tenant from transferring his right for consideration to a third person. Therefore the sale deed executed by the fourth respondent in favour of the fifth respondent transferring the lease-hold rights for consideration cannot be held to be valid. The same is liable to be declared as invalid and the same is liable to be cancelled. ”

8. In the decision reported in 76 LW 399 (Kathayya Padayachi V. Ponnann Kaladi), it was held that a cultivating tenant is a person clothed with special rights



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*and he is certainly not equivalent of a contractual lessee. It is well settled that personal rights cannot be subject matter of a contract. In **R.Subbaiah Thevar V. Muthurangaswamy Naicker 1975 8 LW 775**, it was held that a cultivating tenant has no right to assign his statutory right to any sub tenant and the right also is not inheritable as it is a personal right conferred by the statute.*

9. Vide order dated 20.06.2022 in W.P.(MD)No. 8806 of 2012 (O.Duraismy V. The District Revenue Officer, Theni and Others), a learned Judge of this Court held as follows:-

“4. As per the provisions of the Tamil Nadu Act 25 of 1955, as per the Section 2(aa) of Tamil Nadu Cultivating Tenants Protection Act, 1955, a cultivating tenant means a person who contributes his own physical labour or that of any member of his family in cultivation of any land belonging to another under a tenancy agreement. Hence, it is evident that unless a persons puts in his physical labour, contributes his own physical labour or the physical labour of a member of his family in the cultivation of the said land, he is not a cultivating tenant and his name cannot be recorded in the Act (X of 1969). When a person who has already applied or who has already been conferred with the status of cultivating



tenant dies, the status also dies with him. The legal heirs have to independently establish their status as a cultivating tenant.”

10. In the decision reported in 2010 1 LW 541(Balu Pillai @ Balasubramania Pillai and Others V. Mahadevan) it was held as follows:-

“24. As the special Acts referred to above do not contemplate the right of transfer of the leasehold rights in favour of third parties, it is held that the recorded cultivating tenant has no right to alienate the leasehold right to a third party though he has got a right under the Act to sub-let the properties to a third party. Ignoring the exclusive right of the landlord, the recorded cultivating tenant cannot simply sell away his leasehold rights in favour of a third party. Retaining his leasehold right, he can sublet the premises to a third party. ”

11. Section 6 of the Transfer of Property Act makes it clear that an interest or right that is personal to the individual cannot be transferred. A cultivating tenant has to contribute his physical labour. Only then, he can be a cultivating tenant. If he dies, his heir cannot automatically become a cultivating tenant. The right would die with the person. A cultivating tenant cannot transfer his tenancy. Law does not permit it.”



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6. There is nothing on record to show that the writ petitioners have contributed their personal labour and are cultivating the land in question. In fact, there is not even iota of pleading to that effect.

7. I may not agree with the contention of the learned counsel for the private respondents that the writ Court can confer jurisdiction on an authority. I have consistently held that if an authority does not have jurisdiction to pass an order, such jurisdiction can neither be conferred by consent nor by a Court order. Be that as it may, in as much as the writ petitioners have invited such an order, I am not inclined to set aside the order of the District Revenue Officer at the instance of the writ petitioners. The writ petitioners will have to work out their rights in the manner known to law.

8. The writ petitioners have sought to confer legitimacy on the proceedings by calling upon the District Revenue Officer, Sivagangai to correct the errors that took place during UDR. It is well settled that an UDR error can be corrected only by the jurisdictional DRO. There is no limitation prescribed for seeking such corrections. Even according to the



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writ petitioners, their fore-fathers lost their title in the Court auction sale that took place in the year 1910. The private respondents trace their right to Thiru.Chidambaram Chettiyar, father of Sampath Chettiyar who appears to have purchased the property in a Court auction sale in 1936. The writ petitioners have not been able to place any convincing material before this Court so as to persuade me to interfere with the order of District Revenue Officer on merits. The District Revenue Officer has rightly relegated the parties to approach the civil Court. Interference with the said order is not warranted.

9.This Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

12.11.2025

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

To

1.The District Collector,
Sivagangai District,
Sivagangai.

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G.R.SWAMINATHAN, J.

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- 4.The Tahsildar,
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