

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **06.01.2025**

CORAM:

THE HONOURABLE MRS.JUSTICE N.MALA

W.P(MD)NOs.30367 OF 2024 and 22693 of 2023

and

W.M.P(MD)Nos.18957 and 18958 of 2023

W.P(MD)No.30367 of 2024

M.Periyathal

: Petitioner

.vs.

1.The Commissioner of Land Administration,
Ezhilagam,
Chepakkam,
Chennai – 600 005.

2.The District Collector,
Dindigul District,
Dindigul.

3.The District Revenue Officer,
Dindigul District,
Dindigul.

4.The Revenue Divisional Officer,
Palani, Dindigul District.

5.The Tahsildar,
Palani,
Dindigul District.

: Respondents

W.P(MD)No.22693 of 2023

M.Periyathal

: Petitioner



.VS.

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1.The District Collector,
Dindigul District.

2.The Special Tahsildar,
Adhi Dravida Welfare Department,
Taluk Office, Palani,
Dindigul District.

5.The Tahsildar,
Palani Taluk,
Dindigul District.

:Respondents

PRAYER in W.P(MD)No.30367 of 2024: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents to pass an order of exchange of land in S.F.No.310/1 and provide an alternative land in S.F.No.584/1A to an extent of 0.43 acres, Vagarai Village, Palani Taluk, Dindigul District for continuation of the Petitioner's enjoyment of land based on the Petitioner's representation, dated 15.2.2024 and 18.11.202 within the time limit prescribed by this Court.

PRAYER in W.P(MD)No.22693 of 2023: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order issued by the third respondent, dated 15.2.2023 and to quash the same and consequently to direct the respondent to re-subdivide the Petitioner's landed property in S.F.NO.584/1A1 in Vaikarai Village, Palani Taluk, Dindigul District.

For Petitioner
in both W.Ps'

:Mr.S.Karthik



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For Respondents
in both W.Ps'

:Mr.Veerakathiravan
Addl.Advocate General-III,
assisted by
Mr.A.Kannan,
Addl.Govt.Pleader.

COMMON ORDER

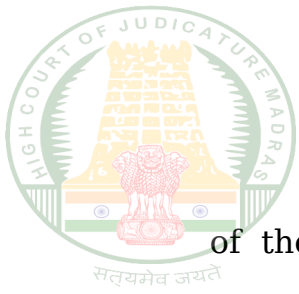
W.P(MD)No.30367 of 2024 is filed for a direction directing the respondents to pass an order of exchange of land in S.F.No. 310/1 and provide an alternative land in S.F.No.584/1A to an extent of 0.43 acres, Vagarai Village, Palani Taluk, Dindigul District for continuation of the Petitioner's enjoyment of land based on the Petitioner's representation, dated 15.2.2024 and 18.11.202 within the time limit prescribed by this Court.

2.W.P(MD)No.22693 of 2023 is filed for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order issued by the third respondent, dated 15.2.2023 and to quash the same and consequently to direct the respondent to re-subdivide the Petitioner's landed property in S.F.NO.584/1A1 in Vaikarai Village, Palani Taluk, Dindigul District.

3.Heard the learned counsel appearing on either side and perused the materials placed before this Court.



4.The Petitioner's father-in-law purchased the property to an extent of 5.93 acres in S.F.Nos.310, 311, 584/1 in Vaikarai Village, Palani Taluk, Dindigul District, vide document NO.473/66. The Petitioner's husband and his brother as legal heirs, divided the property in equal shares. After the division, the Petitioner's husband purchased the property in Document No.582/75 in S.F.No. 311, 584/1 to an extent of 2.97.5 acre, separately and was in possession and enjoyment of the same. The Petitioner's husband totally owned 5.94 acre in Vaikarai Village.The Petitioner states that her husband sold the property under Document No.47/1998 to the Backward Class Welfare Department, on 22.01.1998. The Petitioner's husband sold an extent of 0.69.5 hectares of land (1 acre and 72 cents) in S.No.584/1B.The Petitioner's husband also sold in S.No.584/1C an extent of 0.66.0 hectares(1 acre and 14 cents) totally 1.81.5 hectares ie. 4 acres and 49 cents. Though the above lands were sold by the Petitioner's husband, possession was not taken immediately by the respondents. On 21.09.2019, the Petitioner's husband died leaving behind the Petitioner and his three daughters as legal heirs. The remaining extent of lands were enjoyed by the Petitioner and her three daughters and for S.F.No. 584/1A, to an extent of 0.64 cents, patta was also issued in patta No.1416 to them. While-so, some third parties tried to encroach the Petitioner's property. The Petitioner states that on verification



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of the records with the fifth respondent's Office, the Petitioner came to understand that the land was sub-divided without notice to her. Therefore the Petitioner filed W.P(MD)No.22693 of 2023 and an order of interim injunction was passed in her favour pending the Writ Petition.

5. During the pendency of the Writ Petition, the fourth respondent issued a notice of enquiry on 7.2.2024, to the Petitioner and she gave a statement requesting the respondents to cancel the sub-division made by them, without any notice and further requested to take the Petitioner's land in S.F.No.310/1 to an extent of 0.43 acres and to provide equal land nearby in S.F.No. 584/1A where she was already holding 64 cents. According to the Petitioner, the sub-division made by the respondents was inequitable and very unfair to her. Therefore, the Petitioner requested the Government to exchange the lands so as to enable her to better enjoy her remaining property. As the the fifth respondent did not take any action on the Petitioner's request the Petitioner made representation, on 18.11.2024, to the first respondent to consider her request for exchange of lands. As the first respondent did not take any action, the Petitioner was constrained to file the Writ Petition in W.P(MD)No.30367 of 2024 for the aforesaid relief.



6.The Petitioner also filed W.P(MD)No.22693 of 2023 challenging the sub-division of the lands and for a direction to the respondent to re-subdivide the Petitioner's property in S.F.NO. 584/1A1 in Vaikarai Village, Palani Taluk, Dindigul District.

7.Considering the commonality of the facts and law involved in both the writ Petitions, the Writ Petitions are taken up together for hearing and disposed of by this common order.

8.The learned counsel for the Petitioner referring to the sketch filed at Page No.42 of the typed-set of papers, submitted that the sub-division made by the respondents was inequitable and impracticable. A vast extent of 62 ½ cents of land was shown as an approach road to the 0.40 cents of land permitted to be retained by the Petitioner. The learned counsel submitted that the petitioner already represented to the first respondent for exchange of lands in S.F.No.310/1 and to provide alternative land in S.F.No.584/1A to an extent of 0.43 acres, Vagarai Village, Palani Taluk, Dindigul District for better enjoyment and therefore, along with the said representation, the sub-division made should also be reconsidered by the first respondent, the Commissioner of Land Administration.



9.The learned counsel, further submitted that though he sought for a larger relief, it would suffice if a direction is issued to the first respondent to pass orders on the Petitioner's representation, dated 15.2.2024 for exchange of lands and also to reconsider the sub-division made by the fifth respondent.

10.The learned Additional Advocate General appearing for the respondents submitted that as the matter is pending before the first respondent, the Commissioner of Land Administration, reasonable time may be granted for the disposal of the Petitioner's representation pending with him. The learned Additional Advocate General submitted that because of the pendency of the matter for quite some time, pattas could not be issued to the beneficiaries and therefore the first respondent will endeavour to give a quietus to the long pending matter.

11.Admittedly, the Petitioner's husband owned 5.94 acres in Vaikarai village.The Petitioner's husband through private negotiations sold 4.49 acres of his lands to the Backward Classes Welfare Department vide Document No.47/1998. Even after the sale, the respondents did not take possession of the property. Indisputably, the Petitioner owns 0.43 acres in S.F.No.310/1 and o. 64 acres in S.F.No.584/1A. While sub-dividing the lands for the



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purpose of issuance of patta to the beneficiaries, the respondents ear-marked 0.62 1/2 acres of the Petitioner's lands in S.F.NO. 584/1A as an approach road to the Petitioner's lands to an extent of 0.43 acres in S.F.NO.310/1. The Petitioner aggrieved by the inequitable sub-division which rendered a major portion of the Petitioner's lands in S.F.No.584/1A unenjoyable, filed the W.P(MD)No.22693 of 2023, challenging the sub-division. The Petitioner also submitted representations on 15.2.2024 and 18.11.2024 to the respondents requesting for exchange of lands in S.F.NO.310/1 to an extent of 0.43 acres for lands of equal extent in S.F.NO.584/1A, where the Petitioner was already owning 0.64 acres, for better enjoyment. The Petitioner requested for allocation of 1.01 acres of lands in the southern portion of S.F.No.584/1A so that she could enjoy the entire extent of 1.01 acres in a single block. As the respondents did not take any action on the Petitioner's above request, the Petitioner filed W.P(MD)No.30367 of 2023 for the aforesaid relief.

12.From a bare perusal of the sub-division sketch, it is clear that the sub-division is inequitable as a major portion of 0.62 1/2 acres of lands out of an extent of 1.01 acres retained by the Petitioner in S.F.No.310/1(0.43 acres) and S.F.No.584/1A(0.64 acres) was ear-marked as an approach road to the Petitioner's



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lands in S.No.310/1(0.43 acres). The respondents by the inequitable sub-division rendered a major portion of 0.62 ½ cents of the Petitioner's lands in S.F.NO.584/1A unenjoyable. Moreover, the lands in S.NO.310/1 of the Petitioner were surrounded by the house sites allotted to the beneficiaries and therefore in my view, the request of the Petitioner to allot the southern portion to an extent of 1.01 acres in S.F.No.584/1A by exchanging the lands in S.F.No.310/1(0.43 acres) is fair and reasonable, as admittedly the Petitioner also owns 0.62 ½ acres in S.F.No.584/1A. In my view, the sub-division suggested by the Petitioner will not only benefit the Petitioner, but will result in conducive enjoyment of the lands both by the Petitioner as well as the respondents.

13.In view of the above facts and discussions and also considering that the Petitioner has already submitted a representation to the first respondent for exchange of lands, I am of the view that a direction should be issued to the first respondent to reconsider the sub-division made so as to enable the Petitioner to enjoy her lands in one block and to avoid wastage of lands for forming the approach road to S.F.NO.310/1.

14.The Writ Petitions are therefore disposed of with a direction to the first respondent to consider the Petitioner's



request for the exchange of lands in S.F.NO.310/1(0.43 acres) with equal extent of land in S.F.No.584/1A so as to enable the Petitioner to enjoy the remaining lands of 1.01 acres as a single block and and to reconsider the sub-division made by the respondents within a period of six weeks from the date of receipt of a copy of this order. It is needless to state that the Commissioner of Land Administration shall give an opportunity of hearing to the Petitioner while considering and passing orders on the Petitioner's request for exchange and reconsideration of sub-division of lands. No costs. Consequently, connected Miscellaneous Petitions are closed.

06.01.2025

NSC :Yes/No
Index:Yes/No
Internet:Yes/No

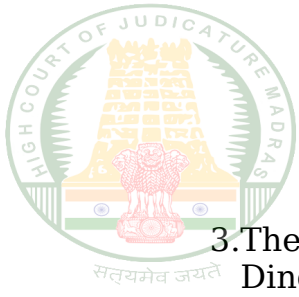
vsn

To

W.P(MD)No.30367 of 2024

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12

N.MALA, J.

vsn

COMMON ORDER MADE IN

W.P(MD)NOs.30367 OF 2024 and
22693 of 2023
and
W.M.P(MD)Nos.18957 and
18958 of 2023

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