



W.P.(MD)No.31034 of 2024,

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : **18.02.2025**

Delivered on : **26.02.2025**

CORAM:

THE HONOURABLE MR JUSTICE P.B. BALAJI

W.P.(MD)No.31034 of 2024

P.Palaniyappan

... Petitioner

/Vs./

1.The Tahsildar,
Melur Taluk,
Madurai District.

2.C.Karnan

3.C.Sathurmugan

4.C.Krishnan

(R2 to 4 impleaded vide Court order
dated 23.01.2025)

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondent to consider the petitioner's representation dated 03.05.2024 and to issue patta in favour of the petitioner's wife, viz., P.Gnanavalli, in Survey No.86/2A, to an extent of 7 cents (out of 69 cents), situated at Pallapatti Village, Karungalakudi Subdivision, Madurai, within a time frame fixed by this Court.



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For Petitioner : Mr.J.Jeyakumaran

For Respondents : Mrs.S.Jeyapriya

Government Advocate for R1

: Mr.T.S.R.Venkat Ramana,

Senior Counsel

for Ms.V.Janaki Devi for R2 to 4

ORDER

The instant Writ Petition has been filed seeking issuance of a Writ of Mandamus, to direct the first respondent to consider the petitioner's representation dated 03.05.2024, to issue patta in favour of the petitioner's wife, viz., P.Gnanavalli, in Survey No.86/2A, to an extent of 7 cents, out of 69 cents, situated at Pallapatti Village, Karungalakudi Subdivision, Madurai. Pending the writ petition, the private respondents 2 to 4 have been impleaded by order dated 23.01.2025.

2. I have heard Mr.J.Jeyakumaran, learned counsel for the petitioner, Mrs.S.Jeyapriya, learned Government Advocate for the first respondent and Mr.T.S.R.Venkat Ramana, Senior Counsel, for Ms.V.Janaki Devi, for the respondents 2 to 4. I have also gone through the records.



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3. The learned counsel for the petitioner would submit that the petitioner's father was possessing ancestral property in survey 86/2A, measuring 62 cents situated at Pallapatti Village, Karungalakudi Subdivision, Madurai District, and on 10.02.1992, the petitioner's father executed a sale deed in favour the petitioner's wife, viz., Gannavalli, under sale deed in document No.158/1992. According to the petitioner, his wife was also in possession and enjoyment of an extent of 69 cents for which patta No.151 had been issued to her. The petitioner conveyed an extent of 62 cents in favour of one V. Chandran, (whose legal heirs have been impleaded as respondents 2 to 4 in the above writ petition) in and by sale deed dated 22.05.2001. Therefore, the case of the petitioner is that his wife retained 7 cents of land and conveyed only 62 cents in favour of one V.Chandran and in respect of the 7 cents, the petitioner sought for issuance of patta in his wife's name, by making a representation on 03.05.2024. The learned counsel for the petitioner would take me through the sale deed in favour of the petitioner's wife as well as the subsequent sale deed executed by her in favour of V.Chandran on 22.05.2001. He would also refer to separate patta bearing patta No. 151, which according to the learned counsel for the petitioner mentions



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an extent of 69 cents and therefore, when only 62 cents has been admittedly conveyed, the petitioner's wife was entitled to patta in respect of remaining 7 cents. This is the primordial contention of the learned counsel for the petitioner.

4. Per contra, Mr.T.S.R.Venkat Ramana, learned Senior Counsel appearing for the respondents 2 to 4, would contend that the writ petition is an abuse of process of law. The petitioner's wife has already sold the entire extent of 62 cents purchased from her father-in-law and nothing would remain for the petitioner's wife, to claim patta. He would further invite my attention to the separate patta that has been relied on by the learned counsel for the petitioner and contended that the reference to 69 was not the extent, but, only the assessment (தீர்வை) and therefore, the petitioner was clearly attempting to mislead this Court and prayed for dismissal of the writ petition along with exemplary costs.

5. I have carefully considered the submission advanced by the learned counsel on either side.



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6. Firstly, I do not see how the writ petition filed by the petitioner on behalf of his wife is maintainable. It is not the case of the petitioner himself that his wife has conveyed the alleged excess 7 cents in his favour. In fact, even in his representation dated 03.05.2024, the petitioner has admitted that it is his wife, who has been in enjoyment of the alleged excess of 7 cents for the past 30 years, the petitioner, therefore, has no *iota* of right in the subject matter of the alleged 7 cents of land. It is not even his case that he holds a valid power of attorney executed by his wife. On this limited ground alone, this writ petition is liable to be dismissed.

7. Even otherwise, as rightly pointed out by the learned Senior Counsel, Mr.T.S.R.Venkat Ramana, the petitioner has not been able to show even *prima facie* existence of 69 cents in order to weave a story that out of 69 cents, 62 cents alone was conveyed, retaining 7 cents. Further, I find from the reference to separate patta and the mentioning of 69, it does not refer to the extent, but only to the assessment. Therefore, the petitioner cannot draw any strength from patta No.151. Viewed from any angle, the petitioner's request for issuance of patta in his wife's name



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is clearly speculative and also an abuse of process of Court. Only a person who has a right, can seek remedy. Here, not only the petitioner, but also his wife, do not have any right in the subject land, that has already been conveyed in favour of V.Chandran, under whom respondents 2 to 4, claim right. Merely giving a representation, without having any pre-existing right and approaching the writ court, the petitioner contends that he only seeks disposal of the representation on merits. This unhealthy practice has become a very common feature of late. The Courts cannot issue a writ of mandamus on the mere asking of the petitioner and the Writ Court exercising jurisdiction under Article 226 of the Constitution of India, is certainly bound to look into the merits of the claim of the writ petitioner, seeking the relief of issuance of writ of mandamus, under the guise of the order being harmless or innocuous.

8. The Courts should be wary of the consequences of such writs of mandamus being entertained, especially, in matters like this where a person, who was already sold the property, attempts to set up a case as if only a portion of the property was sold and an extent of 7 cents was retained. Such claims should not be entertained in writ petitions. If at all



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the petitioner's wife had retained 7 cents, it would have been appropriate for the petitioner's wife to file a civil suit before the competent civil Court and seek appropriate remedy / relief and not file a writ petition, seeking a writ of mandamus, which would eventually only be a starting point for a lengthy litigation, if entertained.

9. In view of the above, I see no merit in the writ petition. In fact, the writ petition is an abuse of process of this Court and hence, I am inclined to dismiss the writ petition with a cost of Rs.10,000/-. Accordingly, this writ petition is dismissed. The petitioner shall deposit the said cost of Rs.10,000/- (Rupees Ten Thousand only) before the Registry of this Court within a period of two weeks from the date of receipt of copy of this order, failing which, the Registry is entitled to take appropriate steps to execute this order, to recover the costs from the petitioner.

Index : Yes / No
NCC : Yes / No
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26.02.2025



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P.B. BALAJI, J.

LS

TO:-

The Tahsildar,
Melur Taluk,
Madurai District.

Order made in
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Dated:
26.02.2025