



C.R.P.(MD)No.742 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.03.2026

CORAM

THE HONOURABLE MR.JUSTICE **V.LAKSHMINARAYANAN**

C.R.P.(MD)No.742 of 2026

1.R.Jothi Meenakshi Sundaram
2.B.Rajeswari

... Petitioners

-vs.-

1.Kumakonam City Municipal Corporation,
represented by its Commissioner,
Thiruvudaimarudur Road,
Kumbakonam Town.

2.The Tahsildar,
Kumbakonam,
Taluk Office,
Dr.Moorthy Road,
Kumbakonam Town.

3.The Sub Collector,
Kumbakonam,
Sub Collector's Office,
Dr.Moorthy Road,
Kumbakonam Taluk.

4.Tamil Nadu Government
represented by its Collector,
Thanjavur, Collectorate,
Trichy Main Road, Thanjavur.

...Respondents



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PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India to set aside the return order, dated 23.02.2026 passed by the trial Court returning the plaint in unnumbered O.S.No. of 2025 on the file of the Principal District Court, Thanjavur and consequently, to direct the trial Court to receive and register/number the plaint.

For Petitioners :Mr.H.Lakshmi Shankar

For R2 to R4 :Mr.K.R.Badurus Zaman
Government Advocate

ORDER

The Civil Revision Petition challenges the order of return made by the learned Principal District Judge at Thanjavur, dated 23.02.2026.

2.The Civil Revision Petitioners, as plaintiffs, presented a suit on 07.11.2025 before the Principal District and Sessions Court at Thanjavur. The suit is for a declaration that the suit properties belong to the plaintiffs and to declare that the notice issued by Kumbakonam City Municipal Corporation is null and void. It also seeks the relief of permanent injunction, restraining the defendants not to interfere with the peaceful



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possession and enjoyment of the plaintiffs property.

3.The case of the plaintiffs is that they had purchased the suit property by way of two registered sale deeds, dated 05.12.1996 and 23.02.1996 from the previous owners. They pleaded that they have been issued with a patta by the Tahsildar at Kumbakonam and that on the basis of these documents, the Kumbakonam Municipality had also mutated the Town Survey Land Register in their name on 12.01.2013.

4.The cause of action seems to be that a notice had been issued by the successor of Kumbakonam Municipality, namely, Kumbakonam City Municipal Corporation on 29.03.2022, treating the property of the plaintiffs as poramboke land (நீர்நிலை). The defendants No.1 to 3 are said to have visited the suit property and had orally threatened the plaintiffs to remove the superstructure within a period of 15 days. In default, they would remove the superstructure. Hence, the suit for the aforesaid reliefs.



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5.The learned Principal District Judge, had, by an order dated 07.11.2025, raised the following questions:

“1)How this suit is maintainable against encroachment from the water bodies as against the order of the Hon'ble High Court of Judicature, Madras vide WP No.1294 of 2009 dated 30.10.2015 has to be explained.

2)How the entry of declaration for entire property is Maintained has to be stated.

3)No documents filed to show the value.

4)Reason for valuing separate permanent injunction has to be given.

5) Southern Boundary and 2nd Item Vary from Document.

6)New Survey Number vary from Document.

*7)Fresh third document there has to be attested.
Time one month.”*

6.In response, the plaintiffs asserted by way of a detailed endorsement that the land claimed by them is not a water body, but it is a patta land, to which they have title. For ready reference, the endorsement made by the learned Counsel is scanned and extracted hereunder:



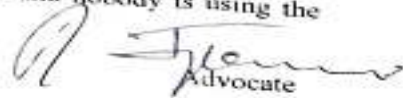
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Since there is no water body available in the suit property. The suit property remain fallow for a number of years and no such tank or water body is available therein. The suit property is a layout approved by the Deputy director of town and country planning Thanjavur. The 3rd defendant Tahsildar issued a patta infavour of the plaintiffs for the suit property through his order dated 10-06-2006. So nobody claim that there is a pond or kuttai therein. In pursuance of the patta issued by the Tahsildar, Kumbakonam, the Kumbakonam City Municipal Corporation issued TSLR infavour of the plaintiffs and in pursuance of the TSLR and the site plan the Kumbakonam City Municipal Corporation approved Building plan for the construction of House building therein, therefore the plaintiffs invested more than two crores for the construction of house building therein. Now all of a sudden the 1st defendant municipality claiming that there is a water body or tank or Kuttai in the suit property.

Since the property is absolutely belongs to the plaintiffs and they purchased the same from their vendors for a valid consideration under two separate Regd. Sale Deeds dated 5-12-1996 and 23-02-2006.

The suit property is not a water body, the lands on the T.S.No.2519 comprises 750 Sq Ft and 5100 Sq Ft with a total extent of 5850 Sq Ft another item of 5820 Sq Ft situate in T.S.No.2519/1A, 1B1, 3B and 4B (Old T.S.No.2519). Therefore the suit cannot be said to be barred under the orders referred to. The vendors of the plaintiffs purchased the house plot and later conveyed the same infavour of the plaintiffs for a valid consideration under two separate Regd. Sale Deeds dated 5-12-1996 and 23-02-2006. After the construction of house building in the suit property by the plaintiff, the Kumbakonam City Municipal Corporation also assessed the property tax in the name of the 1st plaintiff and available property tax receipts also filed along with the plaint. In these above circumstances how a water body could be available in the suit property. It is nothing but an imaginary one and nobody is using the water body on any date.


Advocate



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7.Yet again, on 24.11.2025, the learned District Judge returned the
plaint on the following grounds:

*“1)As per the eviction Notice by D1, there is a
water body in the suit survey number. It has to be
explained.*

*2)Previous order of return no 2 to 6 still holds
good.”*

8.In response, a detailed endorsement was made by the plaintiffs,
which is scanned and extracted hereunder:



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1. In continuation of the representation endorsement on 19.11.2025. It is submitted that as per the notice dated 29.03.2022, it is issued only under the Tamil Nadu Public Premises (Eviction of unauthorised Occupants) Act, 1975 and not under Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007. The notice refers to Survey No. 2519 in its entirety as a "Sarkar Poramboke" and also adds the word (Fili). There is no record that entire property is a "Tank". As per revenue records s.no. 2519 has subdivisions from 2519/ 1A1, 1A2, 1B1A, 1B1B, 1B2, 1B3, 2A, 3A, 3B, 4A, 4B. But the notice of Municipality is vague as it says 2519 only. Therefore the notice of Municipality is contrary to Revenue Records and title documents. As per settled law title documents will prevail. Moreover, the suit is filed for declaration of title and not challenging notice issued by the municipality.

The entire Survey No.2519 has been a Patta land and registered sale deeds have been filed along with the plaint. Apart from that, the proceedings of the Tahsildar with respect to the Patta mutation and related orders in respect of various subdivisions in Survey No.2519 and the TSLR extracts have been annexed as document number 04 along with the plaint, which clearly show that all along it has been a Patta land and has been subdivided. Now, contrary to that, the municipality is issuing the notice mentioning in a vague manner 'Survey No.2519' as "Sarkar Poramboke" and Kutai when as per revenue records it is a patta land and comprised of many subdivisions. Prima facie, there is no basis to the notice of Municipality and a suit for declaration of title can only be filed before a Civil Court.

2. When the Patta's are very clear, a mistaken notice of the municipal corporation, that too under the Tamil Nadu Public Premises Act, 1975 cannot be a bar to take the title suit on file. The HC judgement is in respect of properties which are admittedly 'water bodies/ tanks' and would not apply when land is patta but Municipality wrongly claims otherwise. The suit property is not a 'Tank'. It is a patta land. The municipality's notice only says 0.156 sq.mts is a 'sarkar poramboke' in s.no. 2519 but pattas have been issued for suit properties in various subdivisions.

3. Permanent injunction is sought for as an independent relief based on the possession of the plaintiff, and therefore it has been separately valued (return no.4)

4. The four boundaries of the second item, which is current / presently identifiable, are given. Except for reflecting the current owners on the sides, there is no other variation (return no.5)

5. New subdivisions that have been effected after the purchase, in respect of which Patta's are annexed to the plaint, alone have been shown. Those sub divisions have been carved out from the earlier subdivision and can be verified as per Document No.03. Other directions are also complied with and represented (return no 6).

It is complied and Represented with a delay excuse
Subram
N. S. Kumar
16.05.2026



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9.Yet again, on 23.02.2026, the learned Judge has returned the plaint holding *“no documents filed to show that the suit property is a not water body. Hence returned. Time one month.”*

10.Aggrieved by the repeated returns, the plaintiffs are before this Court.

11.Heard the learned Counsel. I have gone through the records.

11.The learned Principal District Judge, even at the stage of numbering, is seeking the parties to prove their case. There is no question of proof to be let in by the plaintiffs at the stage of numbering. Till the plaint is taken on file, the suit is only under the ministerial jurisdiction of the Civil Court. It is only after the numbering of the plaint, does a Court decide judicially as to whether the plaintiffs have made out a case or not. To call upon a party to prove his case, even at the time of numbering, is to put the cart before the horse.

12.I am certain that the plaintiffs cannot let in evidence before a Sheristadar or a numbering Clerk and thereafter, repeat the very same



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exercise before the learned Principal District Judge. The scope of enquiry at the time of numbering is limited as directed by this Court in ***Selvaraj and others vs Koodankulam Nuclear Power Plant India Limited and others, 2021 3 LW 677.***

13.I find it extremely curious that the learned Principal District Judge should call upon a party to let in evidence to show that the suit schedule mentioned property is not a water body.

14.It is the case of the plaintiffs that, the suit property is a patta land, to which they have title. The assertion is that, it is a patta land and the plaintiffs are not conceding the same is a water body. Proof of the positive can be demanded by the Court during the time of trial. To demand the non-existence of a position is not permissible, even after the parties engaged themselves in a full trial. The burden certainly is on the plaintiffs to prove that it is a patta land. It is not their case that it is a water body. It is the case of Kumbakonam City Municipal Corporation that it is a water body. Therefore, the burden would be on the said Corporation to prove that aspect. To call upon the plaintiffs to prove both their case as well as the case of the defendants puts the plaintiffs in an extremely unenviable



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position.

15.In the light of the judgment referred to above, there shall be a direction to the Principal District Judge, Thanjavur, to number the plaint presented by the Civil Revision Petitioners and thereafter, proceed in a manner permitted by the Code of Civil Procedure and the Evidence Act.

16.The Civil Revision Petition is allowed accordingly. No costs.

17.03.2026

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

Note to Registry: The original of the plaint will be returned to Mr.H.Lakshmi Shankar on obtaining the usual endorsement.

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To

1.The Principal District Judge, Thanjavur.

2.The Tahsildar,
Kumbakonam,
Taluk Office,
Dr.Moorthy Road,
Kumbakonam Town.

3.The Sub Collector,
Kumbakonam,
Sub Collector's Office,
Dr.Moorthy Road,
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4.The Collector,
Tamil Nadu Government
Thanjavur, Collectorate,
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V.LAKSHMINARAYANAN, J.

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