



W.P(MD)No.30987 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 27.11.2025

Pronounced on : 02.04.2026

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

**WP(MD)No.30987 of 2025
and
WMP(MD)No.24201 of 2025**

M.Meenakshi Sundaram

... Petitioner

Vs.

1.The District Collector,
Tiruneveli District.

2.The Tahsildar,
Palayamkottai Taluk,
Tirunelveli District.

3.Block Development Officer,
Palai Panchayat Union,
Palayamkottai,
Tirunelveli – 2.

4.Ariyakulam Panchayat,
Through its President,
having office at
Ariyakulam Panchayat Office,
Ariyakulam – 627 351.

5.Mrs.S.Jessima
(Plot 408C), 1st Main Road,
Teachers Colony, Ariyakulam,
Maharaja Nagar Post,
Tirunelveli – 627 011.



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6.Mrs.A.Hameeda Banu
(Plot 408C), 1st Main Road,
Teachers Colony, Ariyakulam,
Maharaja Nagar Post,
Tirunelveli – 627 011.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus forbearing the 4th respondent from assessing and collecting property tax from the respondents 5 and 6 in respect of the construction/ building/compound wall raised by them allegedly in plot number 408C and/or plot no 408D of the teachers colony in Ariyakulam, Maharajanagar, Tirunelveli pending restoration of the 11th cross street in the teachers colony, Ariyakulam, Maharajan Nagar, Tirunelveli to its original position and if already property tax had been assessed in respect of the building, to cancel the property tax assessment.

For Petitioner : Mr.Lakshmi Shankar

For Respondents : Mr.Lingadurai,

Special Government Pleader for R1 & R2

Mr.A.Oli Raja,

Government Advocate for R3

Mr.Mahaboob Athiff for R5 & R6

ORDER

Heard both sides.



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2.The petitioner is a resident of Teachers Colony located within the territorial limits of Ariyakulam Panchayat. He has filed this writ petition to forbear the local body from assessing the constructions put up by the fifth and sixth respondents in what was shown as 11th cross street in the Teachers Colony Lay out. According to the petitioner, Teachers Colony Layout was formed sometime in the year 1983. It was not an approved layout. The layout measures 42 acres and 40 cents. It originally belonged to five persons, namely, Achariya Thangapalam, Seshadri, Sundarathammal, Sridharan and Dhandapani Nadar. The layout was promoted by T.S.Anthony Jebamalai and Anthony Pandian. They had taken joint power of attorney from Seshadri, Sundarathammal, Sridharan and M.Dhandapani Dhadhar. Achariya Thangapalam had given power of attorney only in favour of Mr.Anthony Pandian alone vide Doc No.15/1973 on the file of the Murappanadu SRO. The lands belonging to the five land owners were contiguous and were consolidated and divided into a number of plots. Streets were equally demarcated in the layout. The individual plots were sold. The case on hand pertains to 11th cross street. It is bounded on the Southern side by Plot Nos. 173, 177, 178, 179, 278, 276, 275, 404, 407 and 408 and on the Northern side by 186, 182, 181, 180, 279, 281, 282, 413, 410 and 409. The 11th cross street as per the lay out intersects the third, second and first main roads.



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After intersecting the first main road, it runs further towards the east and it is bounded on the south side by Plot No.408 and on the North Side by Plot No. 409. It ends with the compound wall of Saratha College. The 11th cross street is 783 feet long and 10 feet wide. A formal gift deed was executed vide Doc No.463/1993 dated 03.10.1993 in favour of Palai Panchayat Union by the power agent T.S.Anthony Jebamalai on behalf of the five land owners. This gift deed specifically includes 11th cross street. The grievance of the petitioner is that while subdividing Plot No.408 into Plot Nos.408A, 408B, 408C and 408D, a portion of the 11th cross street (between the first main road and Saratha College compound wall) has been totally subsumed. The present owner of 408C had also put up a house while the owner of 408D had raised some constructions. The petitioner's apprehension is that if these constructions that have come up over the 11th cross street are also assessed to property tax, the obliteration of public road will be perpetuated and legalised. That is why, this writ petition has been filed.

3.The respondents have filed counter affidavit. The stand of the Tahsildar, Palayamkottai is that lands measuring an extent of 2.04 acres in respect of Survey No.362/2 and 367/1 of Ariyakulam Village Panchayat was registered in the name of individual pattadhars. One Chandra Leela had



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purchased 16.23 cents out of the total extent of 2.04 acres vide registered sale deed dated 01.03.1983 vide Doc No.257 of 1983 on the file of the SRO, Murappanadu. She later sold the same in favor of one Manoharan vide registered sale deed dated 21.11.2005 (Doc No.1133 of 2005). The said Manoharan divided Plot No.408 into 4 and sold the same in favour of some individuals including the fifth and sixth respondents through registered sale deeds. The fifth respondent purchased Plot No.408C while the sixth respondent purchased Plot No.408D vide registered sale deed dated 02.12.2010 (Doc Nos.1280/2010 and 1279/2010). The Tahsildar, Palayamkottai would claim that without getting consent from Chandra Leela, the owner of 408, the gift deed (Doc No.463/1993) was executed by the original land owners in favour of the local body. The stand of the revenue authority is that the fifth respondent had purchased 4.01 cents in Plot No. 408C while the sixth respondent had purchased 3.84 cents in Plot No.408D. According to her, the fifth respondent had raised construction only within Plot No.408C purchased by her. It is further stated that Chandra Leela had purchased 16.23 cents of land and this was later subdivided into four parts by the subsequent purchaser, namely, Manoharan. Paragraph Nos.11 and 12 of the counter affidavit filed by the Tahsildar, Palayamkottai read as follows :

“11) I humbly submit that, the land to an extent of 2.04 acres in respect of Survey Numbers 362/2 and 367/1 situated at Ariyakulam



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Village, Palayamkottai Taluk. Tirunelveli District is classified as Ryot Punjai land and registered in the names of concerned Ryots. One Chandaraleela purchased land subject this land from one Antony and Sreedharam through vide registered sale deed No. 257 of 1983 dated 01.03.1983. In the meantime the Land developers have purchased a large extent of Land in various survey numbers including the Survey Numbers 362/2 and 367/1, situated at Ariyakulam Village, Palayamkottai taluk, Tirunelveli District and made number of Housing plots and formed pathways and streets in the year 1993 and one Sesathri Iyyengar and others have gifted the above said Pathways and streets to the Block Development Officer, Panchayat Union, Palayamkottai by the way of registered gift deed No. 463 of 1993 for maintenance and development of the streets.

12) I humbly submit that, it is pertinent to note that the Housing plots, pathways, and streets made by the land developers in respect of Survey Numbers 362/2 and 367/1 and others situated at Ariyakulam Village has not been plotted in the concerned field measurement sketches and also not registered in the Adangal 'A' Register and other related revenue records of Ariyakulam Village. The land in question is classified as Ryot Punjai and registered in the names of Ryot in respective revenue pattas.”

According to the revenue authority, this writ petition is devoid of merits. The private respondents have filed typed set of papers and submit that since the jurisdictional BDO had issued proceedings regularizing both these plots and that the fifth respondent had obtained building plan approval from the local



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body for putting up house construction, the question of entertaining this writ petition does not arise at all. They also pressed for dismissal of this writ petition.

4.I carefully considered the rival contentions and went through the materials on record. The *locus standi* of the petitioner to maintain this writ petition cannot be doubted. The petitioner is a resident of Teachers Colony, Ariyakulam Panchayat and therefore, he is entitled to expect that the roads and the streets mentioned in the layout are maintained free of encroachments. His grievance is that a portion of the 11th cross street has been encroached by the respondents 5 and 6 and that is why, this writ petition has been filed. Though the scope of this writ petition is limited to forbearing the local body from assessing the petition-mentioned constructions to house tax, to answer the writ prayer, it is necessary to carefully examine the antecedent facts.

5.I must express shock and surprise at the stand taken by the Tahsildar, Palayamkottai. According to her, the gift deed bearing Doc No.463 of 1993 is not a valid document because consent of Chandra Leela was not obtained. Chandra Leela did not own the lands from out of which the layout was formed. She had only purchased one of the plots in the layout. From such an



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individual owner, consent need not be taken for gifting the roads and streets earmarked in the layout in favour of the local body. Copy of the sale deed dated 01.03.1983 (Doc No.257 of 1983) was passed on by the learned counsel for the writ petitioner. The four boundaries in the said sale deed reads as follows :

“Bounded on the northern side by east west street,
on the eastern side, by Sundarathammal land,
on the southern side, by Plot No.399 and
on the western side by North – South road”.

In the sale deed of Chandra Leela, east west street is shown as the northern boundary. The question of having to take her consent for giving gift deed in favour of the local body does not arise at all. The Tahsildar, Palayamkottai has also stated that in the revenue records the land in question is classified as a “Ryot Punjai” and registered in the name of private parties ; since the “street” is not vested with the government, they cannot initiate action as per the Tamil Nadu Land Encroachment Act, 1905 and that the petitioner has to approach the Civil Court. I am surprised that the Tahsildar, Palayamkottai has taken such a stand. Mere non-mutation of revenue records cannot have any bearing as it is a well settled principle that mutation of revenue records will not create or extinguish title. The contention that the revenue authorities cannot remove



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the encroachment and that the petitioner has to approach the Civil Court is baseless.

6. Section 131 of the Tamil Nadu Panchayats Act, 1994 prohibits creation of any construction in or over public roads. If any such construction or encroachment is created, it is the duty of the village administrative officer to report the same to the executive authority of the local body. The executive authority will then call upon the encroacher to remove the encroachment. If the encroacher fails to comply with the demand of the local body, the jurisdictional BDO shall refer the matter to the jurisdictional Tahsildar. The Tahsildar has to initiate action under the Tamil Nadu Land Encroachment Act, 1905 and secure such removal. It is the statutory mandate cast on the jurisdictional Tahsildar. It is surprising that the Tahsildar instead of exercising her statutory power wants the petitioner to move jurisdictional civil court.

7. Public roads, as per Section 125 of the Tamil Nadu Panchayats Act, 1994, in any village shall vest in the village panchayat. The expression "public road" has been defined in Section 2(28) of the Act. It reads as follows :

"public road" means any street, road, square, court, alley, passage, cart track, foot-path or riding-path over which the public have a right of way, whether a thoroughfare or not, and includes-



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- (a) the roadway over any public bridge or causeway;
- (b) the footway attached to any such road, public bridge or causeway;
and
- (c) the drains attached to any such road, public bridge or causeway,
and the land whether covered or not by any pavement, veranda, or
other structure, which lies on either side of the roadway upto the
boundaries of the adjacent property, whether that property is private
property or property belonging to the State or Central Government”

8.Only post-formation of the layout, 11th cross street came to be formed. It is equally true that it was not an approved layout. But that would not make any difference. Once in a layout, streets and roads have been earmarked and plots have been sold to individuals, it is not necessary that only if the gift deeds are executed in favour of the local body, streets and roads vest in them. Far from it. The moment layout was formed in the year 1983 and various individuals including Chandraleela purchased the plot in question, the main roads and cross streets came to be vested in the local body. It is quite possible that the extent of land shown in the layout for individual plots did not correspond to ground reality. Manoharan by dividing 408 into A,B,C,D could not have been allowed to include a portion of the 11th cross street and subsume it in Plot Nos.408C and 408D. In fact, Doc No.1279 of 2010 executed in favour of Hameeda Banu, the sixth respondent herein, by



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the said Manoharan mentions east-west street as the northern boundary for Plot No:408-D, thereby excluding the 11st cross street.

9.In the typed set of papers filed by the petitioner, a copy of the survey report has been enclosed. It is seen therefrom that Plot No.408 measures 74.3 feet on the north south originally. However, while subdividing the plot into four parts, it shows the north south measurement of each plot 408 A,B,C,D as 30 feet , thus extending 74.3 to 120 feet, and that is how the encroachment on the public road had taken place. Ironically, a sale deed standing in the name of the sixth respondent shows the 11th cross street as the northern boundary. Moreover, under Indian property law, if there is a substantial difference between the boundary descriptions and the dimensions (or area) of a property mentioned in the same deed, the "Boundaries Prevail Over Area" principle will have to be applied.

10.As already noted, the statutory scheme underlying the Tamil Nadu Panchayats Act envisages protection of public streets and roads from encroachment. The local body is under an obligation to remove the same. The jurisdictional Tahsildar and the other revenue authorities are obliged to secure its removal. In any event, constructions that have come up in the public road cannot be assessed to property tax.



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11. Even though the scope of this writ petition is only to forbear the authorities from assessing the constructions that have come up in the public road to house tax, I deem it fit and appropriate to direct the jurisdictional Tahsildar to take action under the provisions of the Tamil Nadu Land Encroachment Act, 1905. Notices shall be issued to R5 and R6. Proper survey to be conducted. The task of the official respondents will be to restore the 11th cross street to its original position as mentioned in the layout. If in the process of restoring the 11th cross street, encroachments are noticed, the same shall be removed. The jurisdictional police are directed to extend their assistance for such removal. The entire exercise shall be completed within a period of three months from the date of receipt of copy of this order. It appears that the BDO and Panchayath President had approved the regularization of Plots 408-C & 408-D / the constructions without doing site inspection ; for had they done so, they would have noted the blocking of the 11th Cross Street. The regularization of Plot Nos:408-C & 408-D by the jurisdictional BDO and the building plan approval given by the local body and all such proceedings cannot come in the way of restoring the 11th cross street or enforcing the direction of this Court.



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12.This writ petition is allowed on these terms. No costs. Consequently,
connected miscellaneous petition is closed.

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Index : Yes / No
Internet : Yes/ No
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To

- 1.The District Collector, Tirunelveli District.
- 2.The Tahsildar, Palayamkottai Taluk,
Tirunelveli District.
- 3.Block Development Officer,
Palai Panchayat Union,
Palayamkottai, Tirunelveli – 2.
- 4.Ariyakulam Panchayat,
Through its President,
having office at Ariyakulam Panchayat Office,
Ariyakulam – 627 351.



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G.R.SWAMINATHAN, J.

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