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W.A.Nos.90 to 97 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 12.07.2023

DELIVERED ON: 30.08.2023

CORAM:

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HON'BLE MR.JUSTICE P.B.BALAJI

W.A.Nos.90 to 97 of 2020

**and CMP.Nos.1279, 1280, 1281, 1282, 1283, 1284, 1286, 1287, 1288,
1289, 1290, 1291, 1292, 1294, 1298, of 2020**

W.A.No.90 of 2020

1.The Government of Tamil Nadu,
Rep. by Secretary, Revenue Department,
Fort St.George, Chennai-600 009.

2.The District Collector,
Thiruvallur District,
Thiruvallur.

3.The Tahsildar,
Poonamallee Taluk,
Thiruvallur District.

.. Appellants

Vs.

1.A.Glory
2.S.Flory
3.S.Gnanam
4.S.Joy
5.M.Mary



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6.G.Elezhath
7.M.Edwin
8.Louin Navamani
9.Coleb
10.M.Vedasaronmani
11.M.Benjman

12.The President,
Maiyur Gudapakkam Cooperative Land Colonization,
Society for servicemen Ex,
Puduchathiram Post, Gudapakkam,
Chennai-600 124.

.. Respondents

Prayer: Writ Appeals filed under Clause 15 of the Letters Patent against the order dated 14.03.2018 in W.P.Nos.705, 1026, 1506 to 1509 and 15670 of 2017

For Appellants

W.A.Nos.90 to 97 of 2020 : Mr.J.Ravindran,
Additional Advocate General
assisted by
Mrs.Geetha Thamaraiselvan
Special Government Pleader

For Respondents

Mr.T.Thiageswaran
for M/s.Warron & Sairams

for R1 to R11 in W.A.No.90/2020
Respondent in W.A.No.91/2020
R1 to R4 in W.A.No.92/2020
R1 to R6 in W.A.No.93/2020
R1 & R2 in W.A.No.95/2020
R1 to R3 in W.A.No.96/2020
R1 in W.A.No.97/2020



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Mr.V.Selvaraj
for Mr.D.Jayasingh : R12 in W.A.No.90 / 2020
R5 in W.A.No.92/2020
R7 in W.A.No.93 / 2020
Respondent in W.A.No.94/2020
R3 in W.A.No.95/2020
R4 in W.A.No.96/2020
R2 in W.A.No.97/2020

COMMON JUDGMENT

D.KRISHNAKUMAR, J.

The official respondents in the writ petitions are the appellants herein. Writ petitions were filed by the respondents, seeking for a Mandamus directing the respondents/appellants to issue patta to the petitioners in respect of 6 acres of agricultural lands, which are in possession and enjoyment of the petitioners comprised in S.Nos.341/242 and 97 respectively in Maiyur Gudapakkam Village, as per the directions issued under G.O.Ms.No.277, Revenue Department dated 04.06.2004 and as per the decisions / directions issued by the first respondent under order dated 25.05.2015.

2. Facts briefly narrated are as follows. For the sake of convenience, array of parties in W.A.No.90 of 2020 is adopted.



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2.1. The writ petitioners are claiming to be Ex-Servicemen or their legal heirs. In pursuant to the II World War, the Government decided to allot land to ex-servicemen, who participated in such war. Accordingly, G.O.Ms.No.966, Public (Resettlement Department) dated 22.04.1946 was issued, allotting land to Ex-servicemen at Goodapakkam Village. Another Government Order in G.O.Ms.No.277, Revenue Department dated 04.06.2004 was issued directing the District Collector to issue patta to the Ex-Servicemen who are in possession of their respective land for more than 30 years in pursuant to the allotment made as per G.O.Ms.No.966.

2.2. On 23.11.2004, the District Collector allotted house sites for 53 Ex-Servicemen, who are continuously in possession of lands for more than 30 years. However, the respondents failed to issue patta in respect of the agricultural land, which are allotted to the respective parties who are in possession and enjoyment of the same for more than 30 years. The petitioners submitted representation to the respondents on 16.07.2012 for issuing patta. The Revenue Secretary passed an order on 25.05.2015,



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directing the District Collector to take proper steps to issue patta to Ex-Servicemen, who are in possession of the land for more than 30 years. However, the said request was not considered and therefore, they have filed writ petitions.

3. The respondents had filed counter affidavit in each cases, however, with common contentions. The stand taken by the respondents in their counter affidavits are as follows:

3.1. As per G.O.Ms.No.681, Revenue Department dated 20.03.1941, G.O.Ms.No.966, Public (Rehabilitation) Department dated 22.04.1946, G.O.Ms.No.1401, Public (Rehabilitation) Department dated 22.05.1947 and the Government Gazette dated 06.07.1948, the Government have allotted an extent of 333.12 acres in Gudapakkam village and 346.92 acres in Meyyur for rehabilitation of those who participated in the II World War. It was allotted to the Ex-servicemen land Co-operative Society.

3.2. The Government, vide order in G.O.(Rt) No.277, Revenue Department dated 14.05.2004, ordered that out of 134.81.5 hectares of land which was classified as Kaadu Poromboke in S.Nos.341 and 242 of Gudapakkam village, Poonamallee Taluk, Tiruvallur District and allocated to Ex-



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servicemen, an extent of 11.28.0 hectares be classified as Natham and an extent of 123.83.5 hectares be classified as Dry Assessed Waste and upon reclassification, the District Collector, Tiruvallur to grant free house site and land pattas to the Ex-servicemen and their legal heirs who are in possession of the land for a minimum period of 30 years. For those who are residing and doing cultivation below 30 years also, the Government have directed to send proposals to the Government for the grant of house sites and assignment of land for cultivation purpose as per rules.

3.3. In pursuance of the Government order house site pattas were granted to the families of 53 Ex-servicemen, on 23.11.2004, who are residing for more than 30 years. As regards those who are residing less than 30 years, proposals were sent to Government for the grant of House site pattas to 33 families of Ex-servicemen and the Government have also directed to grant house site pattas to these 33 families on 03.04.2008 and accordingly house site pattas were granted to these 33 families.

3.4. In the meanwhile, about 2400 families, who encroached the Porur PWD Tank in Ambattur Taluk were evicted and were given an alternative site at Survey Nos.341 and 341/1 of Gudapakkam Village, Poonamallee Taluk and an extent of about 48 acres of lands, which were free from encroachments, were identified by the District Administration for this purpose.



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3.5. Writ petitions were filed challenging such allotment of alternative site in W.P.No.48175 of 2006, etc., In the said writ petitions, the District Collector, Tiruvallur, filed a counter stating that so far as the land earmarked for cultivation purpose to the Ex-servicemen in Gudapakkam village is concerned, none of the Ex-servicemen is qualified for getting assignment of land, out of 305 acres of land whereas only a part of land was cultivated and that too, not continuously for 30 years. Consequently, the said writ petition was dismissed.

3.6. Pursuant to the dismissal of the writ petition and the direction issue therein, settlement work was done in the land at Survey No.341 of Gudapakkam village in an extent of 48 acres, which was barren and uncultivated to allot the same to the affected people, who have been evicted from Porur tank.

3.7. Again, writ petitions were filed in W.P.No.11238 of 2011, etc., to evict the encroachers from the land at Survey No.341 of Gudapakkam village and to hand over the land to those writ petitioners, who were evicted on 29.10.2006 and also to assign 5 acres of land to each of the petitioners in the land at S.No.97 of Meiyur village and one acre of land to each petitioner in S.No.341 of Gudapakkam village. By an order dated 25.04.2012, passed in those writ petitions, this Court directed the petitioner society to approach the first respondent viz., the Secretary to Government by



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filing a suitable representation, who shall look into the matter and take appropriate decision.

3.8. Consequently, writ petitioners have submitted their representation on 16.07.2012 for restoration of the land measuring 48 acres, which was allotted to Porur tank encroachers. The Government examined the request and informed the petitioners on 25.05.2015 that re-allotment of 48 acres is not possible since rehabilitation was done as per the High Court direction. It was also informed therein that action will be taken to assign the lands to the Ex-servicemen, after proper verification on the eligibility factors. The District Revenue Officer has also instructed the Revenue Divisional Officer, Tiruvallur to send land assignment proposal for those who have kept the lands under their enjoyment for more than 30 years and those who have kept the lands under the enjoyment for less than 30 years. In such circumstances, these writ petitions are filed before this Court.

3.9. The writ petitioners were already issued with free house site pattas. Regarding the land proposal, sufficient proof was called for from the Tahsildar and it is under consideration. It is a vast extent and the entire field is to be measured with regard to the land owners and to decide the veracity of their claim. The Tahsildar, Poonamallee, is suitably instructed to quicken the process and complete the exercise.



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4. The Writ Court, taking into consideration the rival submissions and the materials placed, has disposed of the writ petitions, vide common order dated 14.03.2018, with certain directions, against which the official respondents therein have filed the instant writ appeals.

5. Mr.J.Ravindran, learned Additional Advocate General appearing for the appellants submitted that the appellants have agreed that necessary action will be taken to comply with the directions passed by this Court in Para 6(a) of the Writ Court order and they have no dispute in complying with the same. The learned Additional Advocate General has strongly placed reliance on G.O.(Ms.)No.277, Revenue [L.D.1(1)] Department dated 04.05.2004, in and by which the appellant has directed the District Collector Tiruvallur to issue free house site pattas to the Ex servicemen and the legal heirs of Ex Servicemen, who are possessing lands continuously for at least 30 years and also instructed the District Collector, Tiruvallur to send the proposal for free allotment of cultivable lands to the cultivators, who were cultivating the above lands for more than 30 years and further directed the District Collector to send the



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proposal for allotment of house sites and agricultural lands to the residents who are residing below 30 years in the above said lands in accordance with the law and the Special Commissioner / Commissioner of Land Administration is directed to get and send the above proposal to the Government at the earliest and therefore, the Government / first appellant is the competent authority to pass final orders in favour of the beneficiaries.

6. The learned Additional Advocate General has further submitted that the Writ Court in para 6(b) of the order has directed that based on the proposal received from the Tahsildar, Poonamallee Taluk, Thiruvallur District, the respondents 1 and 2 / appellants 1 and 2 to assign and issue patta in respect of the actual extent of land, which is in possession and enjoyment of those persons, who are to be benefited as Ex-servicemen in view of the above said Government Orders and he seeks for modification of the said portion of the order to the effect that based on the report submitted by the Tahsildar, Tiruvallur District in compliance of para 6(a) of the Writ Court order, the first appellant may examine and pass



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appropriate orders in the light of G.O.Ms.No.277 dated 04.06.2004 and to that extent they have filed the instant writ appeals before this Court. The learned Additional Advocate General also placed heavy reliance on the communication of the first respondent dated 25.05.2015, wherein the first respondent has informed that after receiving the proposal from the District Collectors through the Commissioner of Land Administration, the same will be considered and appropriate decision will be taken.

7. It is further contended by the learned Additional Advocate General that due to development of the area, the cultivation / agricultural activities are rapidly vanishing and the very purpose of assignment of lands for agricultural purposes will not be fulfilled and thereby, there is a possibility of conversion of lands into house plots and the respondents/writ petitioners will sell them for financial gain and therefore, prays for appropriate orders.

8. Mr.T.Thiageswaran, learned counsel for the respondents / writ petitioners would contend that the respondents have failed to follow the



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directions issued under G.O.Ms.No.277, Revenue Department dated 04.06.2004, which clearly directed the District Collector to issue patta for the house sites and for the agricultural lands to the Ex Servicemen, who are in possession and enjoyment of the allotted lands. It is further contended that the second respondent / District Collector, in spite of a clear direction issued by the first respondent, vide communication dated 25.05.2015 directing the District Collector to issue patta to persons, who are in possession of house sites and agricultural lands for more than 30 years, had not taken steps to recommend the case of the writ petitioners to the first respondent and issue the patta. It is further contended that the respondents/writ petitioners are entitled to have patta with reference to 6 acres of agricultural lands, which is in possession and enjoyment of the writ petitioners in pursuance to the allotment made under G.O.Ms.No.966 and also as per G.O.Ms.No.277, Revenue Department dated 04.06.2004 and the Writ Court has considered these aspects and passed a reasoned order, which does not warrant any interference from this Court and therefore, prays for dismissal of these writ appeals.



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9. Heard the learned counsel for the parties and also perused the materials on record.

10. The fact remains that the petitioners, who claim the benefit of G.O.Ms.No.966, Public (Resettlement Department) dated 22.04.1946 and G.O.(Ms.)No.277, Revenue Department dated 04.06.2004 under Ex-Servicemen category, are seeking for grant of pattas in respect of house sites and agricultural lands. It is not in dispute that the Government has already taken a decision to allot lands to these Ex-Servicemen as per G.O.(Ms.)No.966 dated 22.04.1946 and subsequent G.O.(Ms.)No.277, Revenue Department dated 04.05.2004. It is useful to refer to the following portions of the said Government Order:

"3..... As per G.O.(Ms.)No.966, Public (Resettlement) Department, dated 22.04.1946, funds were allotted for formation of Ex Servicemen residences by levelling the lands, formation of wells and providing needed amenities. In order to enable the settlement of Ex-Servicemen, the village has been formed, in which the above lands divided as 5 acre and 1 acres of plots and 13 wells were formed using the above allotted money. But the above lands are not transferred either in the name of Cooperative Association or in the name of the individual so far and the legal heirs of Ex Servicemen were struggling for their land allotment. Since they are residing



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in the above lands for the past half a century and as per the existing Government Order, the Special Commissioner / Commissioner of Land Administration has recommended that they were eligible for land allotment with the following remarks.

(i) Out of an extent of 134.81.5 hectare of land in S.No.341 & 242, 11.28.0 hectare of land, 123.53.5 hectare of land may be classified as Grama Natham & Dry Assessed land respectively.

(ii) Instruction may be given to the District Collector in respect of issuance of patta to the Ex Servicemen and their legal heirs in accordance with law.

(iii) Instruction may be given to the District Collector for sending proposal for allotment of cultivable lands to the genuinely cultivating cultivators.

4. The Commissioner carefully examined the remarks of the Special Commissioner / Commissioner of Land Administration and accepted the same and passed the order as follows:

(i) Out of an extent of 134.81.5 hectare of forest porompokku land, which were allotted to the Ex Servicemen in S.No.341, 242 of Koodapakkam Village, Poonamallee Taluk, Tiruvallur District, 11.28.0 hectare of land and 123.53.5 hectare of land may be converted as Natham & Dry assessed waste land respectively.

(ii) In the above said converted lands, the District Collector may issue free house site patta to the Ex Servicemen and the legal heirs of Ex servicemen, only who were possessing the above lands continuously for at least 30 years.

(iii) The Government has instructed the District Collector, Tiruvallur to send the proposal for free allotment of cultivable lands (To the Ex Servicemen & the legal heirs of Ex servicemen only) to the cultivators, who were cultivating the above lands for more than 30 years.



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(iv) It is also ordered that the District Collector is directed to send the proposal for allotment of house sites and agricultural lands to the residents who were residing below 30 years in the above said lands in accordance with law and the Special Commissioner / Commissioner of Land Administration is directed to get and send the above proposal to the Government at the earliest.

5. The District Collector, Tiruvallur, the Special Commissioner / Commissioner of Land Administration are instructed to implement the above order."

11. A perusal of the aforesaid Government Order would disclose that the first respondent has never disinclined to reject the claim of the writ petitioners and the main purpose of passing the aforesaid Government Order is to honour the Exservicemen by issuing house site pattas and allotting cultivable lands to them, who are in possession for more than 30 years. In respect of persons residing below 30 years, the Special Commissioner / Commissioner of Land Administration is directed to get and send the proposal from the District Collector to the Government at the earliest. Thus, the intention of the Government is very clear that they are making every endeavour to give effect to G.O.Ms.No.277 dated 04.06.2004 in letter and spirit.



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12. The Writ Court, while disposing of the writ petitions vide common order dated 14.03.2018, had issued the following directions:

"6...a) The concerned Revenue official viz., the third respondent herein shall find out the veracity of the claim of the petitioners and send a report cum proposal indicating as to who are the persons in possession and enjoyment of the subject matter agricultural land for more than 30 years and what is the actual extent of land which is in their possession and enjoyment as on date. Such proposal shall be sent by the third respondent to the Government within a period of six months from the date of receipt of a copy of this order, since vast extent of the land has to be measured and demarcated with reference to the occupation of each of the claimants.

b) On receipt of such proposals from the third respondent, necessary and appropriate action shall be taken by the respondents 1 and 2 to assign and issue patta in respect of the actual extent of land, which is in possession and enjoyment of those persons, who are to be benefited as Ex-servicemen in view of the above said Government Orders. Such exercise shall be done by the respondents 1 and 2 within a period of four months from the date of receipt of such proposal from the third respondent.

c) While measuring, demarcating and allotting the land as stated supra, the assistance of the Meiyur Gudapakkam Exservicemen Land Colonization Co-operative Society shall also be taken by the official respondents only for the purpose of identifying the persons and their possession of their land"

13. The learned Additional Advocate General appearing for the appellants submitted that the appellants have no issue in complying with



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para 6(a) of the order and they only seek for modification of para 6(b) of the Writ Court order, for which they relied upon the communication of the first respondent dated 25.05.2015 addressed to the 12th respondent, with a copy marked to the District Collector, Tiruvallur and to the Additional Principal Secretary, Commissioner of Land Administration, Chennai. It is useful to extract the said communication as hereunder:

"தாங்கள் அரசுக்கு அளித்துள்ள கோரிக்கையினை சென்னை உயர்நீதிமன்றத்தால் முறையே 25.04.2012 மற்றும் 10.01.2013 ல் வழங்கப்பட்ட தீர்ப்பின் அடிப்படையில் அரசு நன்கு பரிசீலனை செய்தது. அவ்வாறு பரிசீலனை செய்யும்பொழுது 2005 ஆம் ஆண்டில் ஏற்பட்ட மழை வெள்ளத்தால் பாதிக்கப்பட்டு போருர் ஏரியில் ஆக்கிரமிப்பு செய்து பூந்தமல்லி வட்டம், கூடப்பாக்கம் கிராமம் 341 3 மற்றும் 341 5 ல் 48 ஏக்கர் நிலத்தில் தற்காலிகமாக குடியமர்த்தப்பட்ட 2015 நபர்களில் தற்போது அங்கு குடியிருந்து வரும் 353 குடும்பத்தினர் கலெக்டர் நகர் குடியிருப்போர் நலச் சங்கம் என்ற பெயரில் சென்னை உயர்நீதிமன்றத்தில் தொடர்ந்துள்ள வழக்கில், மேற்கண்ட நபர்கள் முதல் பிரதிவாதியாகிய அரசிடம் இதீர்ப்பு வெளியிடப்பட்ட இரண்டு வாரங்களுக்குள் மனு செய்யுமாறும், அவர்களது மறு பெறப்பட்ட நாளிலிருந்து நான்கு மாதங்களுக்குள் சட்டபூர்வமாக பரிசீலிக்குமாறும் உத்தரவிட்டுள்ளதை கருத்திற்கொண்டு, மேற்படி நிலத்தில் குடியிருந்துவரும் குடும்பங்களை வெளியேற்றிவிட்டு அந்த நிலத்தை திரும்பப்பெற்று பட்டா வழங்கக் கோரும் தங்களது கோரிக்கையை ஏற்பதற்கான சாத்தியக் கூறுகள் இல்லை என்பதைத் தெரிவித்துக் கொள்கிறேன். இருப்பினும் பாரிவை 5ல் குறிப்பிடப்பட்டுள்ள அரசாணையின்படி, பூந்தமல்லி வட்டம் மெய்யூர் கூடப்பாக்கம் கிராமம் புல எண் 341 1 மற்றும் 242 2ல் (1) முன்னாள் இராணுவத்தினருக்கு



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ஒதுக்கப்பட்ட 134 ஷெறக்டேர் நிலத்தை நத்தமாகவும், 123.53.5 ஷெறக்டேர் நிலத்தை தீர்வை ஏற்பட்ட புஞ்சை தரிசாகவும் நிலவகை மாற்றம் செய்யவும்இ (2) மேற்படி நிலத்தில் குறைந்தபட்சம் 30 ஆண்டுகளாவது தொடர்ந்து தன்வசம் வைத்திருக்கும் (3) 30 ஆண்டுகளுக்கு மேல் சாகுபடி செய்து வரும் (4) 30 ஆண்டுகளுக்கு குறைவாக குடியிருக்கும் மற்றும் விவசாயம் செய்துவரும் முன்னாள் இராணுவத்தினர் மற்றும் அவர்களது வாரிசுதாரர்களுக்கு இலவச வீட்டுமனைப்பட்டா மற்றும் விவசாய நில ஒப்படை வழங்குவதற்கான உரிய கருத்துக்களை அரசுக்கு அனுப்பிவைக்க மாவட்ட ஆட்சியருக்கு வழங்கப்பட்ட அறிவுரைகளின் அடிப்படையில் உரிய கருத்துரு கூடுதல் தலைமைச் செயலர் வருவாய் நிர்வாக ஆணையர் வழியாக பெறப்பட்டு, அரசின் பரிசீலனைக்குப்பின் தக்க முடிவுகள் மேற்கொள்ளப்படும் என்பதனையும் தெரிவித்துக் கொள்கிறேன்."

14. The aforesaid G.O.Ms.No.277 dated 04.06.2004 and the communication of the first respondent dated 25.05.2015 clearly indicates the intention of the Government to grant benefits to the Ex-Servicemen. It is unfortunate to note that the writ petitioners/respondents/beneficiaries were fighting for their claim before the authorities concerned for granting patta in their name for several decades, but still they are unable to see the light of the day due to various reasons and therefore, the respondents/writ petitioners are forced to file litigations before this Court. The respondents have also accepted to grant patta in the names for the said



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properties, but at every stage there is delay in granting of patta and the respondents/writ petitioners were made to run from pillar to post. Based on the request made by the Ex servicemen, the Government thought fit to honour them by granting benefits to them and if the intention of the Government is to honour the Ex servicemen by accepting their claim, the respondents shall endeavour to take necessary steps to honour them and for early disposal of the claim made by them without any further delay.

15. It is to be pointed out that originally the claim has been made by Ex Servicemen and now the legal heirs of the said Ex Servicemen, in some of the writ petitions, are legally fighting for all these years, but unable to see the light of the orders passed by the Government. It is the stand of the appellants that based on the report of the District Collector, final orders will be passed by the first respondent and the said stand of the appellant is recorded by this Court.

16. In the light of the above facts and circumstances and discussion in the foregoing paragraphs, we are inclined to pass the following order:



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(i) Para 6(a) of the order of the Writ Court dated 14.03.2018 shall be duly complied with.

(ii) Para 6(b) of the order of the Writ Court dated 14.03.2018 is modified to the effect that based on the report submitted by the third appellant / Tahsildar, Poonamallee Taluk, Tiruvallur District in compliance of Para 6(a) of the order, the District Collector / second appellant shall send necessary proposal to the first appellant, who shall consider the same strictly in compliance of G.O.(Ms.)No.277, Revenue Department dated 04.06.2004 and the communication dated 25.05.2015 and pass appropriate final orders, as early as possible, within a period of twelve weeks from the date of receipt of a copy of this order.

17. These Writ Appeals stand partly allowed with the above directions. No costs. Consequently, connected miscellaneous petitions are closed.

[D.K.K., J.,] [P.B.B., J.]
30.08.2023

Index:yes/no
Internet:yes
Jvm



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To

- 1.The Secretary,
The Government of Tamil Nadu,
Revenue Department,
Fort St.George, Chennai-600 009.
- 2.The District Collector,
Thiruvallur District, Thiruvallur.
- 3.The Tahsildar,
Poonamallee Taluk, Thiruvallur District.



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**D.KRISHNAKUMAR, J.,
&
P.B.BALAJI, J.**

Jvm

**Common Judgment in
W.A.Nos.90 to 97 of 2020**

30.08.2023