



W.P.No.27506 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	02.08.2024
Pronounced on	21.10.2024

CORAM :
THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition No.27506 of 2019
and W.M.P.Nos.26990 of 2019 & 651 of 2024

1.K.S.Duraimurugan

2.D.Susiladevi

... Petitioners

Vs.

1.The State of Tamil Nadu,
Rep. by its Chief Secretary, Secretariat,
Chennai – 600 009.

2.The Principal Secretary,
Municipal Administration and Water Supply,
Secretariat,
Chennai – 600 009.

3.Commissioner of Municipal Administration,
Urban Administrative Complex,
75, Santhome High Road,
R.A.Puram, Chennai – 600 028.

4.The District Collector,
Collectrate, Palladam Road,
Tirupur – 641 604.

5.The Commissioner,
Tirupur City Municipal Corporation,



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Tirupur.

6.The Member Secretary,
Tirupur Local Planning Authority,
No.544, PalladamMin Road,
Tirupur – 641 604.

7.The Director of Town and Country Planning,
Chennai – 600 002.

... Respondents

Writ Petition has been filed under Article 226 of Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the fifth respondent herein in Na.Ka.No.6108/2010/E4 dated 11.10.2012 and quash the same and direct the respondents herein either to stop usage of the 3129 sq.ft. of land in S.F.No.725/1 of Nallur Village, Tirupur Taluk, Tirupur District or pay compensation for the said land under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act 2013 with interest.

(Prayer amended as per order dated 30.07.2024 in WMP.No.23435 of 2024 in W.P.No.27506 of 2019 by JSNPJ)

For Petitioners : Mr.ARL.Sundaresan,
Senior Counsel
for Mr.L.Palanimuthu

For Respondents 1 to 4,
6 & 7 : M/s.R.L.Karthika,
Government Advocate

For Respondent 5 : Mr.Silambannan,
Senior Counsel
for M/s.P.Shanthi



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ORDER

The relief sought by the petitioner in this writ petition is to call for the records of the fifth respondent herein in Na.Ka.No.6108/2010/E4 dated 11.10.2012 and quash the same and direct the respondents herein either to stop usage of the 3129 sq.ft. of land in S.F.No.725/1 of Nallur Village, Tirupur Taluk, Tirupur District or pay compensation for the said land under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act 2013 with interest.

2. The case of the petitioners are that they are absolute owners of 56.29 cents in S.F.No.725/1 of Nallur Village by virtue of the registered Settlement Deeds dated 13.03.2003 and 22.03.2004. The second petitioner has become the absolute owner of the said property by virtue of the Settlement Deed dated 13.03.2003 bearing Doc.No.1137/2003 executed by her father Sri Muthusamy S/o Ramasamy Gounder. Further, on 22.03.2004, the second petitioner has settled half of the said property in favour of the first petitioner by virtue of the Settlement Deed dated 22.03.2004 bearing Doc.No.1245/2004.



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3. The petitioners are the absolute owners of the said 56.29 cents in S.F.No.725/1 of Nallur Village and they are in continuous possession and enjoyment of the same without any interruption and all revenue records transferred in their favour. Further, the petitioners have constructed residential buildings and factory buildings in the portion of their property and left vacant space on the eastern side for future developments. Their property situated on the northern side of the East-West Road and they are enjoying the said 56.29 cents in S.F.No.725/1 of Nallur Village as the absolute owners and they were exercising all rights of ownership thereof.

4. The petitioners have leased out the buildings to third parties and they are residing at Coimbatore. In the year 2008, in the last week of March 2008, they visited their property and shocked to note that a 30 feet road runs North-South branching off from the 60 feet East-West Road towards North was formed within their property on the eastern side. They immediately have taken steps and came to know that the Commissioner/fifth respondent has formed a road three months ago in their property without their knowledge and consent and made an access to the public, particularly to the residents at



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Gopal Nagar.

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5. The Commissioner/fifth respondent has no right or title in the said property in any manner whatsoever and the Commissioner/fifth respondent has formed a road by encroaching upon their valuable property to an extent of 3129 sq.ft. measuring 104.3 feet on North-South and 30 feet on East-West i.e., Schedule Property. The Commissioner/fifth respondent has no right or title to the said property i.e., 56.29 cents in S.F.No.725/1 of Nallur Village in any manner and no right to encroach the scheduled property and to form road. Therefore, the petitioners issued notice dated 24.03.2008 through their Advocate to the Commissioner/fifth respondent calling upon to desist from permitting the public from using the said road or to pay compensation to the suit schedule property. In the year 2008 itself, the market value of the suit property is Rs.28,69,000/- and the notice was served on the above authority and the Commissioner/fifth respondent had not chosen to reply for the same.

6. Thereafter, the first petitioner had issued another notice on 19.04.2008 to the Commissioner/fifth respondent calling upon him to close the newly formed road in the suit schedule property and the said notice was



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also duly served on the fifth respondent and after service of notice on him, the fifth respondent/Commissioner did not take any action against the notice dated 19.04.2008. Hence, the petitioners filed a writ petition in W.P.No.10921 of 2008 before this Court seeking direction to consider the notice dated 24.03.2008 and 19.04.2008 respectively. Upon hearing the matter, this Court directed the Commissioner/fifth respondent to dispose the letter dated 19.04.2008, within a period of 8 weeks from the date of receipt of a copy of the order. But, the Commissioner/fifth respondent did not taken any action to dispose of the letter dated 19.04.2008. Thereafter, Contempt Petition No.1420 of 2012 in W.P.No.10921 of 2008 was filed against the Commissioner/fifth respondent before this Court. Then, the Commissioner/fifth respondent has issued an order in Na.Ka.No.6108/2010/E4 dated 11.10.2012 containing false and untenable allegations. It contains two parts, one has referred to the order of the seventh respondent i.e., The Director of Town and Country Planning, Chennai dated 05.09.1995, which itself says that the land has to be acquired under the Land Acquisition Act. The second part has referred to the Settlement and Sale, which the respondents have no authority to speak. Aggrieved over the aforesaid order dated 11.10.2010 the petitioner have come forward with the



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present writ petition.

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7. Learned senior counsel for the petitioner submitted that as per letter dated 05.09.1995, the Commissioner/fifth respondent has not followed any of the proceedings. This apart, the Commissioner/fifth respondent has no right to form road without following due process of law in a private property and not followed any procedure as contemplated under the Land Acquisition Act, 2013, which is against law and natural justice. If any land is needed to be acquired for public purpose, proper notification has to be published and notices are to be served to the land owners and the District Collector has to follow the procedure for Land Acquisition under the Land Acquisition Law. The petitioners are the absolute owners of the property and the Commissioner/fifth respondent has to assess the market value of the said property and to pay compensation to the petitioners under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment Bill), 2015.

8. Learned senior counsel for the petitioner would further submit that



the act of the respondents 4 to 6 converting the private property to that of the public road without resorting to the Land Acquisition procedure is not only against Article 300A of the Constitution of India but also against the human rights. The act of the respondents is discriminatory, vindictive and motivated. When others have not formed any road, he could not have expected from the petitioners.

9. Learned senior counsel for the petitioner would further submit that the act of the respondents is not only arbitrary and unreasonable and the same is in violation of Articles 14, 19, 21 and 300A of the Constitution of India and also against the procedures prescribed under the Land Acquisition Act, 2013.

It is held by the Hon'ble Apex Court in K.T.Plantation (Pvt.) Ltd., Vs., State of Karnataka, reported in 2011 9 SCC 1, para 219 as follows:

“One of the fundamental principles of the democratic society inherent in all the provisions of the Constitution is that any interference with the peaceful enjoyment of possession should be lawful. Let the message therefore be loud and clear, that the Rule of Law exists in this country even when we interpret a statute which has blessings of Article 300A”

The Hon'ble Apex Court again in the case of ***Delhi Airtech Services Pvt., Ltd., Vs., State of UP in 2011 9 SCC 354*** at para 30 has held as follows:-



“Liberty cannot long subsist without the support of the property”.

In view of the above judgments and the Land Acquisition Act, the act of the respondents is liable to be declared as ultra vires and unconstitutional.

10. To substantiate his contention, learned senior counsel for the petitioner drew the attention of this Court to the various proceedings and the same reads as follows:

(i) Impugned proceedings of the second respondent dated 11.10.2012.

(ii) The proceedings of the Director of the Town and County Planing/seventh respondent vide Roc.No.27594/94-DP3, dated 05.09.1995.

(iii) The RTI reply given by the Public Information Officer, Assistant Commissioner (incharge), Tiruppur Municipal Corporation.

(iv) The RTI reply given by the Public Information Officer, Tiruppur Local Planning Authority.

(v) The order by Tahsildar, Tiruppur vide proceedings M.T.R.No.1820/2003, dated 05.12.2003.

(vi) A letter addressed by the Commissioner,/fifth respondent to the petitioners' advocate.

(vii) Order by Tahsildar, Tiruppur vide R.D.R.68/2013/A1, dated



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10.01.2013.

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(viii) Order by Tahsildar, Tiruppur vide R.D.R.68A/2013/A1 dated 10.01.2013.

(ix) Certificate extract from the Town Survey Land Register (TSLR) dated 15.05.2019

(x) Certificate extract from the Town Survey land Register (TSLR) dated 21.11.2023.

11. Learned senior counsel for the petitioner would further submit that the Commissioner/fifth respondent is not the owner of the above said land of 3129 sq.ft in Sr.No.725/1, Nallur Village and the patta has also stands in the name of the petitioners and not in the name of the Commissioner/fifth respondent, which is evident from the documents mentioned above. Therefore, the respondents are entitled to pay compensation to the petitioners for an extent of 3129 sq.ft. land situated at Nallur Village. Hence, he prayed this Court to allow the writ petition by quashing the order dated 11.10.2012 passed by the Commissioner/fifth respondent.



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12. The counter affidavit has been filed by the Commissioner, Tiruppur City Municipal Corporation/fifth respondent on **December 2019**. Learned senior counsel appearing for the fifth respondent would submit that one Muthusami, who is the father of the second petitioner had executed a sale deed in favour of Mrs.Umadevi on 14.02.1994 vide Doc.No.855 of 1994 regarding to the said property situated East and the North-South road and the same is mentioned in the “Description and the property”. In the sale deed, Muthusamy has clearly admitted that an extent of 3129 sq.ft in S.F.No.725/1 as North-South road. Subsequently Muthusamy has executed a settlement deed in part of the said property in favour of the second petitioner on 13.03.2003 vide Doc.No.1137/2003 which regarding to the said property situated West of the land of Mrs.Umadevi. He further submitted that the North-South road to an extent of 3129 sq. ft is intentionally included by the petitioners in the settlement deed to grab the said road by unlawfully.

13. Learned senior counsel appearing for the fifth respondent would submit that the title of the petitioners itself in dispute and they are not the owners of extent of 3129 sq. ft. in S.F.No.725/1, Nallur Village and the same is mentioned as road in Doc.No.855/1994. In the description of property, it is



mentioned as North-South Road and the petitioners have suppressed the same and intentionally included 3129 sq.ft. in the settlement deed executed by Muthusamy in favour of the second petitioner vide Doc.No.1137/2003 dated 13.03.2003.

14. Learned Senior Counsel drew the attention of this Court to para 15 of the counter affidavit, and the same reads as follows:

“The New scheme of computerized UDR” is under process and after completion of task; the said extent of 3129 sq.ft will be classified a “Public Road” in official records.”

15. He further submitted that an additional counter affidavit was also filed by the Commissioner, Tiruppur City Municipal Corporation/fifth respondent in July 2024, wherein it is stated that if the land is acquired for formation of road under DTCP scheme development, then the respondents 6 & 7 have to pay the compensation to the petitioners.

16. Learned senior counsel appearing for the fifth respondent has relied on the following judgments of the Hon'ble Supreme Court of India and the



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same reads as follows:

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(i) Civil Appeal No.2848/2021 in the case of Shubhas Jain Vs. Rajeshwari Shivam and others dated 10.07.2021.

(ii) Civil Appeal No.11759 of 2018 in the case of Roshina.T Vs. Abdul Azeez K.T and others.

17. Learned senior counsel would submit that even as per the sale deed dated 14.02.1994 vide document No.855 of 1994, the first petitioner's father in law has described in the schedule of the property that it comprises a North-South road in the east.

18. He would further submitted that the only remedy available to the petitioners is to file a suit for declaration of title and since the road was laid by the Corporation and used by the public, the petitioners are not entitled for any compensation as claimed in the writ petition and prays for dismissal of the same.

19. A counter affidavit is filed by the Member Secretary, Tiruppur



Local Planning Authority/sixth respondent. For better appreciation and understanding, the relevant paragraph is extracted hereunder:

“5. A portion in S.F.No.725/1 of Nallur Village is earmarked as F13-F13 40 Feet proposed scheme road in the above said detailed development plan and is to be formed by Local Planning Authority. As per the counter affidavit of the Tiruppur Corporation, the road was already a mud road and is used by public more than 30 years then this road is converted into thar road for Gopal Nagar area unapproved layouts were sold and mentioned this South to North approach road to Gopal Nagar.”

20. Heard the learned counsels on either side and perused the materials available on record.

21. There is no dispute that originally the land to an extent of 56.29 cents in S.F.No.725/1 in Nallur Village belongs to the petitioners by virtue of registered settlement deeds dated 13.03.2003 and 22.03.2004. The second petitioner has become the absolute owner of the said property by virtue of settlement deed dated 13.03.2003 bearing Doc.No.1137 of 2003 executed by her father Mr.Muthusamy S/o Ramasamy Gounder. Further on 22.03.2004, the second petitioner has settled half of the said property in favour of the first



petitioner by virtue of the settlement deed dated 22.03.2004 bearing Doc.No.1245/2004.

22. The land in dispute is only to an extent of 3129 sq.ft and according to the petitioners, the same has been encroached by the Commissioner, Tirupur Municipal Corporation/fifth respondent by forming a road on the subject property for an extent of 3129 sq ft measuring 104.3 feet on North-South and 30 feet on East-West and the Commissioner/fifth respondent has no right of title in the said property in any manner.

23. As per the impugned order dated 11.10.2012, it is stated that as per the partition deed Doc.No.753 of 1974, the property is allotted to the father of the second petitioner viz., Muthusamy S/o Ramasamy Gounder. Hence, there is no dispute in regard to the title of the property and the petitioners are the absolute owners of the property and in the same letter, it is also mentioned as follows:

“ மேலும், தங்கள் மனையிடத்தில் அதாவது க.ச.எண்.725/1ல் புதியதாக சாலை அமைக்க, கூிரிவு அபிவிருத்தித் திட்டம் எண்.15ல் எப்16-எப்16 என்ற 40 அடி



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அகல சாலை உத்தேசிக்கப்பட்டுள்ளது. மேற்படி திட்டமானது டி.டி.சி.பி கடிதம் எண்.2759/94, நாள் 05.09.1995ல் அங்கீகரிக்கப்பட்டு DDP/CN/DTCP No.60/95 என எண்ணிடப்பட்டுள்ளது. மேலும் இத்திட்டசாலையானது மனைஉரிமையாளர்களால் அமைக்கப்பட வேண்டும் என குறிப்பிடப்பட்டுள்ளது. எனவே வரிவு அபிவிருத்தித் திட்டத்தில் உத்தேசிக்கப்பட்டுள்ளவாறு மனையிடத்தில் தங்களது சொந்த செலவில் சாலை மேமத்து மாநகராட்சிக்கு தானமாக வழங்க வேண்டும் என்று குறிப்பிட்டிருப்பினும், பொதுமக்களின் நலன் கருதியும், சாலை பயன்பாட்டின் முக்கியத்துவத்தினை கருத்தில் கொண்டும் மாநகராட்சி மூலம் சாலை அமைக்கப்பட்டுள்ளதால், தாங்கள் கோரியுள்ளவாறு சாலையை அடைக்க இயலாது என தெரிவித்துக்கொள்ளப்படுகிறது.”

It is pertinent to note from the above impugned order issued by the Commissioner/fifth respondent, the plot owners have to laid down road. Since they have not done, the Corporation has laid down the road and the same is used by the general public and cannot be closed as requested by the respondents herein.

24. At this juncture, it is appropriate to extract the reply given by the Public Information Officer of the sixth respondent:



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In the above mentioned document, it is clearly mentioned that the road is in use, after the approval of the Tiruppur Development Plan No.15. As per the Development Plan No.15 of Tiruppur Local Planning area, it was decided to re-examine the entire project and steps have also been taken.

25. It is also pertinent to extract the relevant paragraph of the proceedings of the Director of Town and Country Planning/7th respondent and the same reads as follows:

“ 3) The Member Secretary of Tiruppur Local

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Planning Authority is requested to initiate action for acquiring the lands for implementation of the Detailed Development Plan No.15 of Tiruppur Local Planning Area under Land Acquisition Act, 1894. Area of this Detailed Development Plan is 205.00 acres.”

26. It is pertinent to extract the RTI reply given by the Public Information Officer, Tiruppur City Municipal Corporation vide Na.Ka.No.E1/563/2013 dated 20.02.2013:



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பதிவு அஞ்சல் ஒப்புதலுடன்
ந.க.எண் இ1/563/2013

மாநகராட்சி அலுவலகம்,
திருப்பூர்.
நாள் - 12.02.2013

தகவல் அறியும் சட்டம் மனுவிற்கு தகவல் வழங்குதல்

பொருள் : தகவல் அறியும் உரிமை சட்டம் 2005 - திருப்பூர் மாநகராட்சி
திருப்பூர் மாவட்டம் - வரைபடம் கோரியது - தொடர்பாக

பார்வை : 1. திரு. கே. பாலதண்டபாணி, கோவை-8 அவர்களின் தகவல்
அறியும் சட்டம் மனு நாள் 29.1.2013
2. மாநகர் சார் ஆய்வரின் 18.2.2013-ம் தேதிய அறிக்கை.

பார்வை 1ல் காணும் தகவல் அறியும் உரிமை சட்டம் மனுவின்
1-வது பார்வை 2-ல் காணும் மாநகர் சார் ஆய்வரின் அறிக்கையின் பேரில் கீழ்க்குறிப்பிட்டவரது தகவல்கள்
வழங்கப்படுகிறது.

30 அடி தளச்சாலை பட்டா எண் 556-ன்படி ராமசாமிச்சுவண்டர் மகன்
முத்துசாமிச்சுவண்டர் 1, சுப்பையசுவண்டர் 2கள் கே.எஸ். துரைமுருகன் 2, துரைமுருகன் மனைவி
டி. சுசிலாதேவி 3. ஆகியோர் பெயரில் உள்ளது என்ற தகவல் வழங்கப்படுகிறது. மேலும் மேற்படி
இடத்தின் வரைபடம் மற்றும் நிலப்பதிவேடு நகல் இத்துடன் இணைத்து அனுப்பப்படுகிறது.

இணைப்பு: வரைபடம் 1
நிலப்பதிவேடு நகல் 1

மொது தகவல் அலுவலர் (ம)
உதவி ஆணையர் (பொ)
திருப்பூர் மாநகராட்சி

பெறுநர்:
திரு. கே. பாலதண்டபாணி B/Sc., B.L.,
வழக்கறிஞர்,
புத்தம் பிஸ்டிங் இரண்டாவது வீதி,
கோபாலபுரம்,
கோவை-641 018.
நகல்: சி2 உதவியாளர்

From the above, it is crystal clear and evident that 30 feet thar road stands as joint patta No.556 in the names of 1. Muthusamy Gounder S/o Ramasamy Gounder 2. K.S.Duraimurugan S/o Subaiah Gounder and 3. D.Susila Devi.



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27. It is also not in dispute that the patta stands in the name of the petitioners till date and the same is evident from the following records:

ஆர்.டி.ஆர்.68/2013/அ1
வட்டாட்சியர் அலுவலகம்,
திருப்பூர்.
நாள்: 01.2013

நல்லூர் கிராம நிர்வாக அலுவலர் மற்றும்
நகர சபை ஆய்வாளருக்கு உத்தரவு.

திருப்பூர் வட்டம், நல்லூர் கிராமம், க.ச.725/1 நெ. காலகட்டு
டி.எஸ்.என்.40/1-ல் செட்டில்மெண்ட் பத்திர எண்.1137/2003-ன்படி 24520 சதுரடி இடம்
செட்டில்மெண்ட் பத்திரப்படி குணமுடிவன் மனைவி டாக்டர்லாதேவிக்கு
பாத்தியப்பட்டுள்ளதால் மேற்படியார் பெயரை பட்டா எண்.556-ல் கூட்டாக சேர்க்க
உத்தரவிடப்படுகிறது.

பெறுநர்: மனுதாரர்
நகல்: 1.கிராம நிர்வாக அலுவலர், நல்லூர்
2. நகர சபை ஆய்வாளர்

வட்டாட்சியர் அலுவலகம்
10 JAN 2013

ஆர்.டி.ஆர்.68A/2013/அ1
வட்டாட்சியர் அலுவலகம்,
திருப்பூர்.
நாள்: 01.2013

நல்லூர் கிராம நிர்வாக அலுவலர் மற்றும்
நகர சபை ஆய்வாளருக்கு உத்தரவு.

திருப்பூர் வட்டம், திருப்பூர் டவுன் ஷேர் காலனி வாய்க்கால் தோட்டம் கதவு
எண்.33பி-ல் வசித்து வரும் சுப்பைய கவுண்டர் குமாரர் கே.எஸ்.துரைமுருகன்
என்பவருக்கு நல்லூர் கிராமம் திருப்பூர் நகராட்சி எல்லைக்குட்பட்ட க.ச.725/1 நெடு
காலை தற்போதைய டி.எஸ்.நெ.40/1-ல் 24520 சதுரடி இடத்தில் பொதுவில் பாதி
இடமானது திருப்பூர் 2 இணை சார்பதிவாளர் அலுவலக பத்திர எண்.1245/2004-ன்படி
பாத்தியப்பட்டது. மேற்படி கிராமம் பட்டா எண்.556-ல் மனுதாரர் பெயரைக் கூட்டாக
தூக்கல் செய்ய உத்தரவிடப்படுகிறது.

பெறுநர்: மனுதாரர்
நகல்: 1.கிராம நிர்வாக அலுவலர், நல்லூர்
2. நகர சபை ஆய்வாளர்

வட்டாட்சியர் அலுவலகம்
10 JAN 2013



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CERTIFICATE EXTRACT FROM THE TOWN SURVEY LAND REGISTER

Block Code and Name of Locality	Number		O.Sur No and Letter	Adangal	How the holding is utilised	Remarks
	Sur. Field	Sub Div.				
Block: BLOCK 5 -	40	1B1 A	725/IP-	ராமசாமி கவுண்டர் மகன் முத்துசாமி கவுண்டர், சுப்பைய கவுண்டர் மகன் துரைமுருகன், துரைமுருகன் மனைவி சுசீலாதேவி சுப்பிரமணியம் மகன் சத்தியமூர்த்தி மாணிக்கம் மகன் ஆனந்தன் அச்சுதன் மகன் கண்ணன்	விவசாயம்	TR DT: 05-09-2017

CERTIFICATE EXTRACT FROM THE TOWN SURVEY LAND REGISTER

Block Code and Name of Locality	Number		O.Sur No and Letter	Adangal	How the holding is utilised	Remarks
	Sur. Field	Sub Div.				
Block: BLOCK 118 - நல்லூர் கிராமம்	1	0	W:O/B: 5/TS No.40/1 A, 2B, 40/1B1 Ap, 40/1B2. 42/1p, 2A1p	முத்துசாமி கவுண்டர் மகன் ராமசாமிகவுண்டர், சின்சாமிகவுண்டர் மகன் முத்துச்சாமிகவுண்டர், ஸ்ரீ சரவணாஸ்பின்னிநிலில்ஸ் பிரைவேட் லிமிடெட் இயக்குநர் கிருஷ்ணசாமி மகன் ஜெயக்குமார் கிருஷ்ணசாமி, துரைசாமி மனைவி உமாதேவி, கந்தசாமி கவுண்டர் மகன் பெரியசாமி, ருபரியசாமி மனைவி சுகுணா, துரைசாமி மனைவி உமாதேவி, கருப்பசாமிகவுண்டர் மகன்	விவசாயம்	TR DT: 05-09-2017



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				தங்கராஜ் காயத்ரி ஓம் சரவணன் ஓம் சரவணன், சின்னசாமிகவுண்டர் மகன் தங்கராஜ், ராமசாமிகவுண்டர் மகன் முத்துசாமிகவுண்டர், ஈஸ்வரமூர்த்திகவுண்டர் மகன் பாலசுப்பிரமணியம், சுப்பையகவுண்டர் மகன் துரைமுருகன், துரைமுருகன் மனைவி சுசீலாதேவி, சுப்பிரமணியம் மகன் சத்தியமூர்த்தி, மாணிக்கம் மகன் ஆனந்தன், அச்சுதன் மகன் கண்ணன், ஓம் சரவணன் மனைவி காயத்ரி ஓம் சரவணன், பாலசுப்பிரமணியம் மகன் யுவராஜப்பிரபு, நாச்சிமுத்துகவுண்டர் மகன் சந்திரன், ஈஸ்வரன் மனைவி பூமதி சண்முகநாதன் மனைவி யுவஜனனி, நடராஜ் மகன் யுவராஜ், சுப்பையன் மகன் சக்திவேல், சின்னராஜ் மகன் செந்தில்குமார்.	
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The above mentioned four documents have been issued by the authorities, after the 1994 sale deed i.e., from 10.01.2013 to 21.11.2023. From the same, it is crystal clear and evident that the petitioners are the absolute owners of the property and not the Corporation and as on date, the land stands in the name of the petitioners. Hence, it is reiterated that there is no dispute over the title of the property and the petitioners are the owners of the property, even as per the impugned order of the Commissioner/fifth respondent dated 11.10.2012.

28. At this juncture, it is pertinent to mention paragraph 15 of the



counter affidavit filed by the Commissioner/fifth respondent and the same reads as follows:

“The New scheme of computerized UDR” is under process and after completion of task; the said extent of 3129 sq.ft will be classified a “Public Road” in official records.”

Even as per the above statement in the counter affidavit, the road is yet to be classified as public road in the official record and the counter is filed way back in the year 2019 and even in the town plan survey dated 25.11.2023, the land still stands in the name of the petitioners and not in the name of the Commissioner/fifth respondent. Since the above said road is not declared as public road till date, no doubt, the road is a private road. From this, it can be understood that property where the 30 feet road was laid is a private property and not the property vested with the Corporation.

29. It is also pertinent to extract paragraph (e) of the additional counter filed by the fifth respondent in July 2024 and the same reads as follows:

“e. This place Sf.No.:725/1 New Development Scheme No.15, F13-F13 40ft Road forecasted to form 40 feet road Director of Town and Country Planning vide letter No.27594/1994 dated 05.09.1995 and as per scheme it should



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be formed by Local Planning authority. If land acquired for formation road under DTCP scheme road Developments then Town and Country Planning herein 6th and 7th respondent has to pay compensation.”

It is clear from the above submission that if the land is acquired by the Local Planing Authority, the respondents 6 & 7 have to pay the compensation and in this regard, already there was a proceedings of the Director of Town and Country Planing/seventh respondent addressed to the the Member Secretary, Tiruppur Local Planing Authority/sixth respondent to initiate action for acquiring the land for implementation of Development Plan No.15 of Tiruppur local plan area under Land Acquisition Act, 1894.

30. It is also pertinent to extract Article 300A of the constitution of India and the same reads as follows:

300A. Persons not to be deprived of property save by authority of law.

No person shall be deprived of his property save by authority of law.”

31. It is also pertinent to extract paragraphs 5 and 6 of the counter affidavit filed by the sixth respondent and the same reads as follows:



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“5. A portion in S.F.No.725/1 of Nallur Village is earmarked as F13-F13 40 Feet proposed scheme road in the above said detailed development plan and is to be formed by Local Planning Authority. As per the counter affidavit of the Tiruppur Corporation, the road was already a mud road and is used by public more than 30 years then this road is converted into thar road for Gopal Nagar area unapproved layouts were sold and mentioned this South to North approach road to Gopal Nagar.”

6. The relevant portion of the section 67 of the Tamil Nadu Town and Country Planning Act, 1971 is extracted as follows:

67.Utilisation of Funds.(1) Every planning authority shall utilise the moneys from the Fund Account for meeting.

(a) The expenditure incurred in the administration of this Act;

(b) The cost of acquisition of land for purposes of development;

(c) The expenditure for any development of works contemplated in any development plan;

(d) The expenditure for such other purposes as may be required by the planning authority;

(e) The expenditure for such other purposes as the Government may direct”.

As per the above said provisions, if petitioners herein submits the proposal with necessary particulars through the 5th respondent, then the same can submitted to the Government through Directorate of Town and Country Planning, Chennai for necessary orders.”



According to the above statement, if the petitioners submits the proposal with necessary particulars through the fifth respondent, the same can be submitted to the Government through the Director of Town and Country Planning, Chennai/seventh respondent for necessary orders.

32. To substantiate his claim, learned senior counsel appearing for the fifth respondent has relied on the following judgments of the Hon'ble Supreme Court of India and the same reads as follows:

(i) Civil Appeal No.2848/2021 in the case of Shubhas Jain Vs. Rajeshwari Shivam and others dated 10.07.2021. For better appreciation and understanding, the relevant paragraph is extracted hereunder:

“26. It is well settled that the High Court exercising its extraordinary writ jurisdiction under Article 226 of the Constitution of India, does not adjudicate hotly disputed questions of facts. It is not for the High Court to make a comparative assessment of conflicting technical reports and decide which one is acceptable.”

The aforesaid judgment is not applicable to the present case on hand for the reason that there is no disputed questions of facts and there is no conflicting technical reports.

(ii) Civil Appeal No.11759 of 2018 in the case of Roshina.T Vs. Abdul



Azeez K.T and others. For better appreciation and understanding, the relevant paragraph is extracted hereunder:

“15. It has been consistently held by this Court that a regular suit is the appropriate remedy for settlement of the disputes relating to property rights between the private persons. The remedy under Article 226 of the Constitution shall not be available except where violation of some statutory duty on the part of statutory authority is alleged. In such cases, the Court has jurisdiction to issue appropriate directions to the authority concerned. It is held that the High Court cannot allow its constitutional jurisdiction to be used for deciding disputes, for which remedies under the general law, civil or criminal are available. This Court has held that it is not intended to replace the ordinary remedies by way of a civil suit or application available to an aggrieved person. The jurisdiction under Article 226 of the Constitution being special and extraordinary, it should not be exercised casually or lightly on mere asking by the litigation.

16. In our view, the writ petition to claim such relief was not, therefore, legally permissible. It, therefore, deserved dismissal in limine on the ground of availability of an alternative remedy of filing a civil suit by respondent No.1 (writ petitioner) in the Civil Court.

17. We cannot, therefore, concur with the reasoning and the conclusion arrived at by the High Court when it unnecessarily wen into all the question of fact arising in the case on the basis of factual pleadings in detail and recorded a factual finding that it was the respondent No.1 who was in



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possession of the flat and, therefore, he be restored with his possession of the flat by the appellant.”

The aforesaid judgment is not applicable for the reason that there is no dispute regarding the title of the property and the same is evident from the records of the authorities viz., the Commissioner/fifth respondent.

33. In para 5 of the counter affidavit filed by the Commissioner/Tiruppur Municipal Corporation, it is stated that the second petitioner has to prove that she is the absolute owner of the property. In this regard, already there was a settlement deed document executed in favour of the second petitioner by Muthusamy vide sale deed Doc.No.1137 of 2003 dated 13.03.2003.

34. The contention of the fifth respondent in para 7 of the above counter that the disputed property is a public road cannot be countenanced because, in para 15 of the same counter, it is stated as follows:

“The New Scheme of computerized UDR is under process and after completion of task; the said extent of 3129 sq.ft. will be classified as “Public Road” in official records”.



35. In the subsequent counter affidavit filed by the fifth respondent Corporation on 29.07.2024, it is stated in para 5 (e) as follows:

“e. This place Sf.No.725/1 New Development Scheme No:15, F13-F13 40 ft Road forecasted to form 40 feet road Director of Town and Country planning vide letter No:27594/1994 dated 05/09/1995 and as per scheme it should be formed by Local Planning authority. If land acquired for formation road under DTCP scheme road developments then Town and Country planning herein 6th and 7th respondents has to pay compensation”.

Hence, it is clear and evident that the road is not a public road and it is a private road only.

36. In the written statement filed by the sixth respondent, the Member Secretary, Tiruppur Local Planning Authority, Tiruppur dated 31.07.2024, it is stated that as per Section 67 of the Town & Planing Act, 1971 that if the petitioners herein submits the proposal with necessary particulars through the 5th respondent then the same can be submitted to the Government through the 7th respondent the Director of Town and Country Planning, Chennai – 600 002.

37. Hence from the above it is clear that the 5th and the 6th



respondent have no dispute over the title of the property vested with the petitioners. This apart, nowhere in the counter affidavit, it is mentioned that the respondents are disputing the title of the property. Therefore, the learned senior counsel's first contention that they are disputing the title of the petitioners over the said property is unsustainable.

38. The second contention that the petitioners have to file a suit for declaration of title is also unsustainable.

39. It has to be noted that even in the counter affidavit filed by the 5th respondent on 31.07.2024 it is not mentioned that the said road to an extent of 3129 sq.ft. has been classified as “Public Road” in the official records. As per the counter affidavit of the 5th and the 6th respondent there is a mud road and the same has been used by the general public for 30 years does not mean it is a corporation road and does not confer the ownership or title on 5th respondent/Tirupur corporation.

40. Even as per the RTI reply by the fifth respondent,



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Commissioner, Tiruppur Corporation dated 31.12.2012, the road is not in the name of the Corporation.

41. In the counter filed in the December 2019 and in July 2024 i.e., after 12 years of the above RTI reply also, the road is not in the name of the Corporation and the same is evident in Town Survey Land Register (TSLR) dated 21.11.2023 and till now, the patta stands in the name of the petitioners and not in the name of the Corporation.

The subject matter road to an extent of 3129 sq.ft. is already used by the fifth respondent/Corporation. Hence, there is no necessity to initiate fresh acquisition proceedings.

42. Hence this Court is of the considered view that the petitioners are entitled for compensation along with interest and the order passed by the fifth respondent in Na.Ka.No.6108/2010E4, dated 11.10.2012 is liable to be quashed and the same is hereby quashed. This Court is inclined to issue the following directions:



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(i) The petitioners are directed to submit to the fifth respondent/Corporation the documents relating to the market value of the property, copy of the patta or Town Survey Land Register and other documents, if any, for payment of compensation by the respondents.

(ii) On receipt of the above documents, the value of the land shall be determined as per the market value of the property by the Commissioner, Tiruppur City Municipal Corporation/fifth respondent and he is directed to forward the proposal to the sixth respondent/The Member Secretary, Local Planning Authority, Tiruppur.

(iii) Thereafter, the sixth respondent/the Member Secretary of the Tiruppur Local Planning Authority is directed to send a proposal to the Director of Town and Country Planning, Chennai/7th respondent for necessary orders in regard to payment of compensation as claimed by the petitioners under the provision of Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 with 9% interest as per Section 80 of the said Act from the date of



laying the road by the Commissioner, Tiruppur City Municipal Corporation/fifth respondent, i.e., in the year 2008.

(iv) On receipt of the proposal from the Member Secretary, Local Planning Authority, Tiruppur/sixth respondent, The Director of Town and Country Planning/seventh respondent is directed to forward the same to the Government for necessary orders in regard to payment of compensation as claimed by the petitioners.

(v) Thereafter, the compensation may be paid/settled under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 to the petitioners by the concerned respondents and after the payment of compensation as directed in this order, the road will vest with the fifth respondent Corporation.

(vi) The entire above exercise shall be completed by the respondents within a period of five months (5) from the date of receipt of a copy of the order.



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43. Accordingly, this writ petition stands allowed with the above directions. No costs. Consequently, connected miscellaneous petitions are closed.

21.10.2024

vm

Index : Yes/No

Speaking Order : Yes/No

Neutral Citation : Yes/No

To:

1.The Chief Secretary,
Secretariat,
Chennai – 600 009.

2.The Principal Secretary,
Municipal Administration and Water Supply,
Secretariat,
Chennai – 600 009.

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3. Commissioner of Municipal Administration,
Urban Administrative Complex,
75, Santhome High Road,
R.A.Puram, Chennai – 600 028.

4. The District Collector,
Collectrate, Palladam Road,
Tirupur – 641 604.

5. The Commissioner,
Tirupur City Municipal Corporation,
Tirupur.

6. The Member Secretary,
Tirupur Local Planning Authority,
No.544, PalladamMin Road,
Tirupur – 641 604.

7. The Director of Town and Country Planning,
Chennai – 600 002.

J.SATHYA NARAYANA PRASAD,J.

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21.10.2024