

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.12.2015

CORAM

THE HON'BLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.Nos.14227 & 20561 of 2015

&

M.P.Nos.1,1, 2&2 of 2015

1 Mallika
2 V.Elumalai
3 V.Saravanan ... Petitioners in W.P.No.14227 of 2015
K.Varadhan .. Petitioner in W.P.No.20561 of 2015.

Vs.

1 The District Collector
Kancheepuram District, Kancheepuram
2 The Tahsildar
Sriperumbudur Taluk
Kancheepuram District
3 The Commissioner
Corporation of Chennai
Ripon Building, Chennai 600 003
4 The Assistant Engineer
Metro Water Corporation
No.156 Division, Corporation of Chennai
Padasalai Street, Mugalivakkam
Chennai 125
5 The Superintending Engineer (South West) (CMW SSB)
Chennai Water Board
Pumping Station Road, Chindadripet,
Chennai 600 002.

.. Respondents in both W.Ps.

PRAYER IN W.P.No.14227 of 2015

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of mandamus to forbear the respondents from evicting or interfering or disturbing with the peaceful possession and enjoyment of the petitioners residential patta property situated in Survey No.67/5C 67/7 and 67/7B & C No.1/954 Bharathiyar Salai Kumutham Nagar Extension

Mugalivakkam Chennai 125 to an extent of 14 cents or 6 104 sq.ft. of land except due process of law.

PRAYER IN W.P.No.20561 of 2015

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records relevant to the order in Letter No.Se.Ku.Va./M.Po.(The.M.)/PA12/1381/2015 dated 02.07.2015, passed by the fifth respondent and quash the same as illegal, improper, unreasonable, arbitrary and natural justice.

For Petitioners .. Mr.M.V.Muralidaran

For Respondents ... Mr.R.Lakshmi Narayanan-R1 & R2
Addl.Govt.Pleader

Mr.P.V.Selvakumar - R3

Mr.M.Jothikumar - R4 & R5

C O M M O N O R D E R

With the consent of the learned counsel appearing on either side, the writ petitions are taken up for final disposal.

2. Heard Mr.M.V.Muralidaran, learned Counsel appearing for the petitioners, Mr.R.Lakshmi Narayanan, learned Additional Government Pleader appearing for the respondents 1 & 2, Mr.P.V.Selvakumar, learned counsel appearing for the third respondent and Mr.M.Jothikumar, learned counsel appearing for respondents 4 & 5.

3.In both these Writ Petitions, the petitioners claim that for the land in Survey No.67/7 measuring an extent of 0.33 cents, patta was granted on 20.3.1945 in favour of Kuppan, who is none other than the father of the petitioner in W.P.No.20561 of 2015 and the petitioners in W.P.No.14227 of 2015 are the wife and children of the petitioner in W.P.No.20561 of 2015. Based on the said document, the petitioners claim that they are entitled to the said property in question.

4.Earlier, the petitioner in W.P.No.20561 of 2015, filed a Writ Petition in W.P.No.13191 of 2015, praying for issuance of a writ of mandamus to forbear the respondents from interfering from his possession of the property in question. The said Writ Petition was disposed of by directing the authorities to consider his representation. However, in the impugned proceedings dated 02.07.2015, a specific stand has been taken by the respondent Board by stating that the land in Survey No.67/7 has already been handed over to the Chennai Water Board (CMWSSB)

on 01.03.2013 and in the said place 60,000 ltr capacity water tank has been erected and also the work for establishing a sump is in progress.

5.First of all, for the petitioners to seek for any right over the property in question, they have to succeed in establishing that the patta granted on 20.3.1945 relates to the property in question and how they have acquired title over the property, etc. Without establishing the title, the petitioners cannot approach the Writ Court and seek for a direction. Accordingly, the prayer sought for in the Writ Petitions cannot be granted.

6.Accordingly, the Writ Petitions fail and the same are dismissed. However, the dismissal of these Writ Petitions will not prevent the petitioners from approaching the Civil Court of competent jurisdiction for establishing their title and in the event of doing so, the Court concerned shall decide the petitioners case on merits and in accordance with law, uninfluenced by any of the observations made in this order. No costs. Consequently, connected Miscellaneous Petitions are closed.

rpa

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

To

- 1 The District Collector
Kancheepuram District, Kancheepuram
- 2 The Tahsildar
Sriperumbudur Taluk
Kancheepuram District
- 3 The Commissioner
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Ripon Building, Chennai 600 003
- 4 The Assistant Engineer
Metro Water Corporation
No.156 Division, Corporation of Chennai
Padasalai Street, Mugalivakkam
Chennai 125

5 The Superintending Engineer (South West) (CMW SSB)
Chennai Water Board
Pumping Station Road, Chindadripet,
Chennai 600 002.

+ 2 ccs to Mr.M.V.Muralidaran, Advocate Sr 65758, 65759.

+ 2 ccs to Mr.M.Jothikumar, Advocate Sr 66477, 66478.

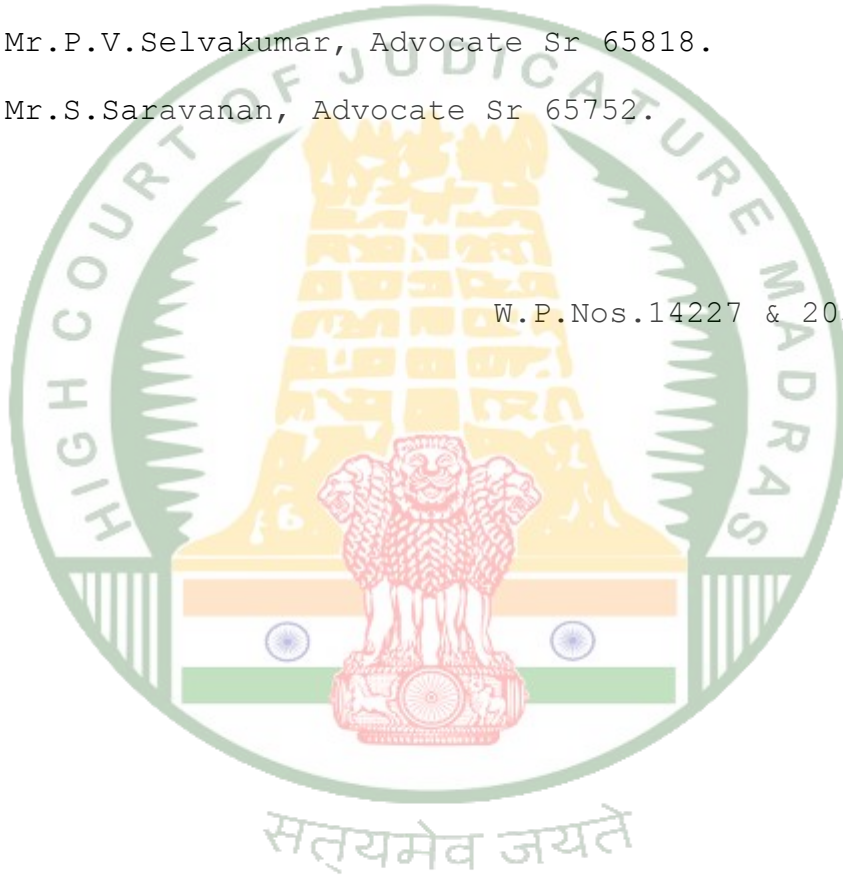
+ 2 ccs to The Govt.Pleader, Sr 65949, 66173.

+ 1 cc to Mr.P.V.Selvakumar, Advocate Sr 65818.

+ 1 cc to Mr.S.Saravanan, Advocate Sr 65752.

SVI/CO
KR/28/12

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