

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.Nos.24707 and 24708 of 2014
and
M.P.Nos.1 to 3 of 2014

M.Bright Kennedy
rep.by his Power Agent
R.Rajasekaran

... Petitioner in W.P.No.24707
of 2014

1. Rathinavathi Masilamani

2. M.Jansi Rani

3. M.Usha Rani

4. M.Bright Kennedy

5. M.Nesakumar Patel @
Patel Kennedy

6. M.Sasi Rani

7. M.Vidya Rani @ Ida Vidya Rani
rep.by their Power Agent
R.Rajasekaran

... Petitioners in W.P.No.24708
of 2014

vs.

1. State of Tamil Nadu
rep.by its Secretary
Revenue Department
Fort St.George, Chennai-9.

2. State of Tamil Nadu
rep.by its Secretary
Public Works Department
Fort St.George, Chennai-9.

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3. The Additional Chief Secretary/
The Commissioner of Land Administration
Office of the Commissioner of Land
Administration, Ezhilagam
Chepauk, Chennai-5.
4. The Director of Survey and Settlement
Office of the Director of Survey and
Settlement, Central Survey Office
Survey House, Chepauk
Chennai-5.
5. The Member Secretary
Chennai Metropolitan Development
Authority, Thalamuthu Natarajar
Maaligai, No.1, Gandhi Irwin Road
Egmore, Chennai 600 008.
6. The Director
Directorate of Town and Country Planning
Opp.LIC, Chengalvarayan Building
No.807, Anna Salai
Chennai 600 002.
7. The District Collector
Office of the District Collector
Kancheepuram District.
8. The Tahsildar
Office of the Tahsildar
Taluk Office Complex
Thiruporur Taluk
Kanchipuram District.
9. A.Jayachandra Reddy
10. M/s.Olympia Group
Olympic Technology Park
rep.by its Director
Gaurav Sanghvi
Plot No.1, SIDCO Industrial Estate
Guindy, Chennai-32.

... Respondents in both W.Ps.

Writ petitions filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus, directing the respondents herein to rectify the mistakes in the FMB sketches for

the property comprised in (i) Survey No.136, Thiruvidanthai Village, Thiruporur Taluk, Kanchipuram District showing the subject property as S.No.136/1B1A1 in one FMB sketch and showing the subject property as S.No.136/1B1B in other FMB sketch and (ii) Survey No.137, Thiruvidanthai Village, Thiruporur Taluk, Kancheepuram District respectively, A-Register of the year 1987 prepared after UDR scheme and to restore the status of the property as per the documents and revenue records before the implementation of UDR scheme and also to survey the property by using sophisticated measuring instruments and to furnish a copy of survey report to the petitioners.

For Petitioners : Mr.S.Joel
in both W.Ps.

For Respondents : Mr.V.Jayaprakash Narayanan
in both W.Ps. Special Government Pleader
for RR1 to 8

Mr.P.Subba Reddy for R9

Mr.AR.L.Sundaresan SC for
M/s.AL.Ganthimathi for R10

COMMON ORDER

Heard Mr.S.Joel, learned counsel for the petitioners, Mr.V.Jayaprakash Narayanan, learned Special Government Pleader appearing on behalf of respondents 1 to 8, Mr.P.Subba Reddy, learned counsel for R9 and Mr.AR.L.Sundaresan, learned Senior Counsel appearing for R10 in both the writ petitions.

2. The petitioners, in these writ petitions, seek for the issuance of a writ of mandamus to direct the respondents herein to rectify the mistakes in the FMB sketches for the property comprised in (i) Survey No.136, Thiruvidanthai Village, Thiruporur Taluk, Kanchipuram District showing the subject property as S.No.136/1B1A1 in one FMB sketch and showing the subject property as S.No.136/1B1B in other FMB sketch and (ii) Survey No.137, Thiruvidanthai Village, Thiruporur Taluk, Kancheepuram District respectively, A-Register of the year 1987 prepared after UDR scheme and to restore the status of the property as per the documents and revenue records before the implementation of UDR scheme and also to survey the property by using sophisticated measuring instruments and to furnish a copy of survey report to the petitioners.

3. It is seen that the petitioner in W.P.No.24707 of 2014 earlier approached this Court by way of earlier writ petition in W.P.No.27153 of 2013, wherein the petitioner has sought for some what an identical relief except in the instant cases, the petitioners want the survey to be conducted using sophisticated measuring equipment. In the said writ petition, the 10th respondent herein was not a party, but his vendor 9th respondent was the 6th respondent, who was impleaded subsequently as party to the proceedings. The operative portion of the order dated 18.03.2014 passed by this Court would read thus:

"When the writ petition was taken up for hearing, Mr.A.Kumar, learned Special Government Pleader appearing for the respondents 1 to 5 submitted that as per the order passed by this Court in W.P.No.28008 of 2012 dated 15.10.2012 directing the Tahsildar of Chengalpattu and the Firka Surveyor of Thiruvidadanthai Village to measure the entire property of the petitioner herein and others, when the said official respondents went to measure the entire property of the petitioner covered in Survey No.136/1B1A1 situate in Thiruvidadanthai Village, they were not permitted by the sixth respondent and his friends. Therefore, the order passed by this Court could not be complied with. However, he sought for some more time to complete the exercise as ordered by this Court.

2. Heard the learned counsel for the petitioner and the learned counsel for the sixth respondent also.

3. Though a similar relief is sought in this writ petition, considering the submission made by the learned Special Government Pleader for the respondents 1 to 5, four more weeks time is granted to the Tahsildar of Chengalpattu and the Firka Surveyor of Thiruvidadanthai Village to measure the entire property of the petitioner covered in Survey No.136/1B/1A1 of Thiruvidadanthai village in the presence of the Inspector of Police, Kelambakkam Police Station. As already ordered by this Court, the official respondents have to do the said exercise after hearing all other interested parties. With this observation, the writ petition stands disposed of. Consequently, M.P.No.1 of 2013 is closed. No costs."

4. It is submitted that pursuant thereto, the authorities initiated proceedings and they also conducted spot inspection, wherein the petitioners and the 9th respondent were present. However, the parties wanted to videograph the entire survey, which

was refused by the authorities. Therefore, the petitioners submitted a representation dated 18.08.2014. Since the same was not considered, they have come before this Court by way of present writ petitions.

5. Learned Senior Counsel appearing for the 10th respondent, in both these petitions, submitted that his client is a lawful purchaser of the property, who has purchased the same for valid consideration and therefore the claim made by the petitioners are absolutely without any basis and in any event the Revenue Authorities cannot decide the title of the parties.

6. I have heard the submission made by all the parties concerned and perused the materials available on record.

7. It is to be pointed out that it is settled legal issue that the Revenue Authorities cannot decide the disputed question of title and the only remedy is that the parties have to agitate the same before the Civil Court. However, the petitioners in these cases, seek for considering their representation dated 18.08.2014 for conducting survey.

8. In the light of the above, without going into the merits of the petitioners' contention, there will be a direction to the 8th respondent-Tahsildar, Thiruporur Taluk, Kanchipuram District to consider the petitioner's representation dated 18.08.2014, after notice to the petitioners as well as the respondents 9 and 10 and after hearing both the parties in person and receiving their written representation/objection, on prima facie enquiry, if the eighth respondent is of the opinion that there are serious disputes regarding question of title, the parties have to approach the Civil Court for remedy, the authority is directed to pass appropriate orders accordingly; or else the eighth respondent shall consider the representation of the petitioners and pass appropriate orders on merits and in accordance with law within a period of three months from the date of receipt of a copy of this order.

9. With the above direction, both these writ petitions are disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary
State of Tamil Nadu
Revenue Department
Fort St.George, Chennai-9.
2. The Secretary
State of Tamil Nadu
Public Works Department
Fort St.George, Chennai-9.
3. The Additional Chief Secretary/
The Commissioner of Land Administration
Office of the Commissioner of Land
Administration, Ezhilagam
Chepauk, Chennai-5.
4. The Director of Survey and Settlement
Office of the Director of Survey and
Settlement, Central Survey Office
Survey House, Chepauk
Chennai-5.
5. The Member Secretary
Chennai Metropolitan Development
Authority, Thalamuthu Natarajar
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7. The District Collector
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8. The Tahsildar
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Taluk Office Complex
Thiruporur Taluk
Kanchipuram District.

+1cc to Mr.S.Joel, Advocate, S.R.No.13660

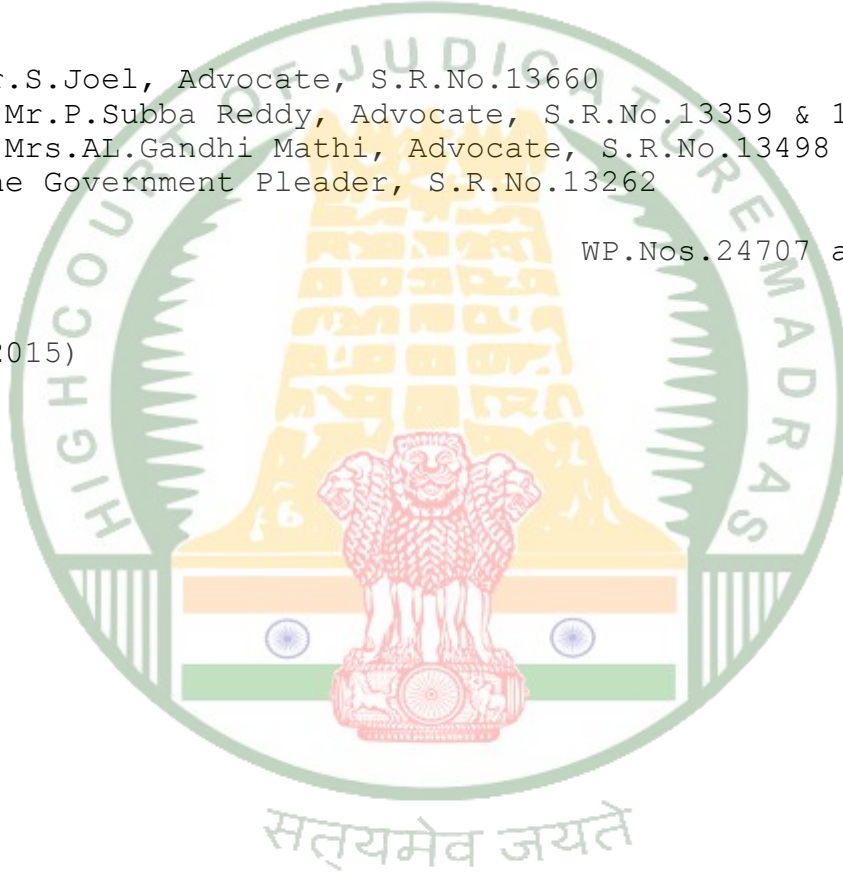
+2cc's to Mr.P.Subba Reddy, Advocate, S.R.No.13359 & 13360

+2cc's to Mrs.AL.Gandhi Mathi, Advocate, S.R.No.13498 & 13499

+1cc to the Government Pleader, S.R.No.13262

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KU (CO)
CA(16/03/2015)



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