

IN THE HIGH COURT OF JUDICATURE AT MADRAS

CAV ON 22/12 /2014

DATED: 21/ 01 /2015

CORAM

THE HONOURABLE MR.JUSTICE C.S.KARNAN

W.P.No.7664 of 2010 &
M.P.No.2 of 2010

S.Balasubramaniam Petitioner

Vs.

- 1.The Government of Tamil Nadu,
Rep. by its Secretary,
Housing and Urban Development Department,
Fort St. George, Chennai - 600 009.
2. The Chennai Metropolitan Development Authority,
Rep. by its Member Secretary,
Thalamuthu Nadarajar Building,
Egmore, Chennai.
- 3.The Special Tahsildar,
Maraimalar Nagar Schemes (Law Acquisition),
Kattankolathur - 603 203. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for a Writ of Certiorarified Mandamus, to call for the records on the file of the first respondent i.e., Secretary to Government, Housing and Urban Development Department, Fort St. George, Chennai - 600 009 in connection with the Letter No.28955/UD/3/2006-6, dated 13.02.2007, quash the same and consequently direct the respondents to re-convey the lands in Survey No.336 in Sub Division 4T1, 5A1, 5A2, 5B7 and 336/5C3,5B7 in total to an extent of 7.83 acres at No.56, Kattankulathur Village, Kancheepuram District and grant no objection to continue to own posses and enjoy the said properties without any encumbrance under the provisions of the Land Acquisition Act.

For Petitioner : Mr.E.K.Kumaresan
For Respondents : Mr.M.S.Ramesh
Additional Government Pleader for R1 & R3

Mr.N.Sampath (CMDA) for R2

O R D E R

The short facts of the case are as follows:-

The petitioner submits that his father Subbaiah (Late) was a Freedom fighter and on his repeated request to Higher Authorities and the District Collector, the Government of Tamil Nadu has passed a Government Order, assigning lands in the name of his father as honorarium under the Special Category of Freedom Fighter for the purpose of cultivation to meet his basic needs for an extent of 7.83 acres at Kattankulathur Village in Kancheepuram District in Survey Numbers as follows:-

- (a) S.No.336/4T1 to an extent of 0.64 acres
- (b) S.No.336/5A1 to an extent of 3.76 acres
- (c) S.No.336/5A2 to an extent of 0.14 acres
- (d) S.No.336/5B7 to an extent of 0.76 acres
- (e) S.No.336/5C3 to an extent of 2.57 acres

The petitioner further submits that the said lands were described as Plot No.5, in the proceedings No.3637/49, dated 09.08.1949 of the District Collector and patta No.230 was also issued in his father's name, pursuant to the G.O.Ms.No.5993, Development Department dated 06.12.1948. The said G.O. was passed in favour of Freedom Fighters including the petitioner's father based on the continuous request made by them by de-reserving the area which was originally a reserved forest. Subsequently, they have taken possession and continue to enjoy the land by paying kist. The petitioner's father died on 17.03.1973. Thereafter, the petitioner's brothers, viz.,

(1) Meenakshisundaram (S.M.Sundaram), (2) S.Duraiswamy, (3) S.Balasubramaniam (the petitioner), (4) the petitioner's sister, viz., Sakunthala were enjoying the property. The petitioner further submits that he has filed this writ petition on behalf of his two brothers and sister as well and they had only a thatched shed house and one pucca built house despite standing crops viz., Nelli, Asoka, Tamarind, Kamala, Narthai, Supporta, Cocount, Mango and Palmyrah trees.

2. The petitioner further submits that the above said land was assigned to them as a honorarium for having his father involved in Freedom Movement. While so, they learnt that the lands were acquired under the Land Acquisition Act. Consequently, Section 4(1) Notification was made in G.O.Ms.No.1939 RF & LA, dated

23.08.1974 for the total extent of 123.49 acres including their land to an extent of 7.83 acres. Thereafter, Section 6 declaration was made in G.O.Ms.No.1700 RD & LA, dated 15.10.1977 and published in the Government Gazette on 22.10.1977. It seems that an award under Section 11(a) was also made only on 13.11.1986. The said acquisition was stated to have been for housing purpose by designing the layout for residential plots, in the name of Maraimalai Nagar. They are challenging the acquisition proceedings in every stage, but unfortunately, the acquisition was confirmed. The petitioner further submits that though the award was made as early as on 13.11.1986, no amount of compensation was paid to them. The petitioner further submits that he, his two brothers and a sister are the legal-heirs of his father Subbaiah and they are in continuous joint possession and enjoyment of the above land as co-owners. The compensation ought to have been granted to all of them, but without apportioning the amount of compensation individually to them, the award of amount Rs.2,68,425/- was stated to have been deposited in the civil Court. However, they were not given this knowledge and till date, they have not been granted even a single pie towards the compensation.

3. The petitioner further submits that as there is no compensation being paid to them for the past 25 years, the possession and enjoyment is with them. The same was confirmed by the third respondent in his letter dated 22.09.2009 to the first respondent. The Land Acquisition Proceedings ought to have been held as automatically lapsed. To prove their possession and continuous enjoyment, the petitioner has filed the chitta receipt dated 03.05.1999. When the petitioner approached the second respondent in the year 2003, it was replied that the said Kattankulathur Village does not fall within the area limit of Chennai Metropolitan. As such with an ample hope, he requested the respondents on several occasions, lastly on 05.12.2005 to issue no objection and to release the land in their favour from the Land Acquisition Proceedings, but the first respondent rejected their requests. The petitioner further submits that in reply to the representation, the first respondent passed an order dated 22.02.2006, stating that the lands were taken by the second respondent in the year 1992 and the second respondent could not design the layout for residential plot, as the bulk of lands have been allotted to Ford Company for industrial purpose. When the lands were acquired for the residential plots and the same could not be designed, the lands ought to have been vested with the first respondent to recover under Section 16(b) of the Act. Further, the order observes that the second respondent has invested huge sums in developing the lands and if the acquired lands are handed over to the landowners, the total number of plots will be reduced which may result in non-recovery of investments and financial loss.

4. The petitioner further added that in the order dated

22.02.2006, out of 123.49 acres at Kattankulathur Village, in which his request for re-conveyance is only for 7.83 acres. Nowhere in the order it is stated that their lands are utilized for the purpose for which it was acquired. The lands were acquired for development of residential plots, but the same could not be designed for layout of residential plots and the respondents have opted to allow for industrial purpose. In the interest of general mass, lands can be re-conveyed to them for agricultural cum residential purpose. The petitioner further submits that it is pertinent to state that the award has been passed on 19.09.1986 and the lands were alleged to have been taken over by the second respondent by 1992. But, in spite of a lapse of nearly 25 years from the date of award and nearly 13 years from the date of taking over by the second respondent, the facts remain that the possession is with them and no improvement is made. The first respondent has passed a G.O.Ms.No.254, Housing and Urban Development (HBS) Department, dated 06.10.2003 for re-conveying the land which are un-utilized to the original owners on payment of necessary costs and incidental charges. That apart, as stated in the above order in the event of such handing over of the acquired land, if the respondents have sustained any loss, they are prepared to pay equivalent or even double the amount of such loss. Because, the value of their father's sincere efforts, involvement and dedication in the National Freedom Movement and as such they are duty bound to honour his ambition. Further, in the great memory of their father, they want to keep the landed property as a memento. Therefore, at any cost they want to get back the landed properties to be transferred in their name jointly by re-conveying or granting no objection by the respondents.

5. The petitioner further submits that since the first respondent having rejected their requests for transferring the properties in their name, the petitioner made a Review Petition dated 15.03.2006 to re-convey the landed properties in the said S.No. to an extent of 7.83 acres at 56, Kattankulathur Village, either under Section 48(b) or under Section 16(b) of the Land Acquisition Act subject to their payment towards development and incidental charges which the respondents may fix the said review petition was given by him after the order dated 22.02.2006. He has also sent another representation on 23.03.2009 and the same is pending on the file of the respondent. The petitioner further submits that he has challenged the order dated 22.02.2006 in W.P.No.36456 of 2006 and this Court, by order dated 06.11.2006, passed the following order "since the petitioner is making the request for re-allotment of his land to consider the review application of the petitioner and pass appropriate orders in accordance with law, within a period of 30 days from the date of receipt of a copy of this order. Since the respondent has not passed any order on the review petition dated 15.03.2006, the petitioner has filed a contempt petition No.375 of 2009 before this

Court and the respondents have filed counter in the above contempt petition, in which, they have stated that the order in W.P.No.36456 of 2006 was received only on 17.11.2006 and the Government has passed orders on 13.02.2007 and a reply was also sent to this petitioner and he has acknowledged the reply. However, the respondent has not stated when he has received the order dated 13.02.2007.

6. The petitioner further submits that he has not received any order dated 13.02.2007 from the respondent. But, however, the copy of the order was furnished to his counsel in letter No.28955 U.D3/(1)/06.6, Housing and Urban Development dated 13.02.2007. He submits that if the order was sent to him as soon as it was passed, he could have challenged the same then and there, but the same was furnished to his counsel on October 2006, during the Contempt Proceedings and therefore, he has challenged the above proceedings in this writ petition. The petitioner further submits that the impugned letter dated 13.02.2007, No.28955 U.D.3/2006-6, the first respondent has rejected his review petition dated 15.03.2006, requesting for the re-conveyance of the land in Survey No.336/471 etc., Kattankulathur Village. The impugned order has been passed without any personal hearing from the petitioner and the same was passed based on the records available at the time of passing the award and the first respondent has not called for any report from the third respondent to ascertain the status of the land. Even though, this Court has directed the respondents to pass orders in accordance with law, the respondent has not followed the procedure under Section 48(B) of the Land Acquisition Act. Therefore, the impugned order is liable to be set-aside. Hence, the petitioner entreats the Court to allow the above writ petition.

7. The second respondent, viz., Chennai Metropolitan Development Authority has filed a counter statement and refuted the above writ petition. The second respondent submits that the following lands as indicated in the table were already acquired for development of a Satellite Town at Maraimalai Nagar under Award No.10/86, dated 19.09.1986 and the lands were taken over by Chennai Metropolitan Development Authority during year 1992.

Survey No.	Extent (in Acre)
S.No.336/4T1	0.64 acres
S.No.336/5A1	3.76 acres
S.No.336/5A2	0.10 acres
S.No.336/5B7	0.80 acres
S.No.336/5C3	2.57 acres
Total	7.87

The second respondent further submits that on perusal of the Award No.10/86, dated 19.09.1986, it is mentioned that the lands are

classified as dry and stands registered jointly in the name of S.M.Sundaram and others under patta No.230, the details of the structures, trees, etc which were found in the award records noted as follows:-

Survey No.	Structures
S.No.336/4T1	To pillars well, pump shed, thatched roof, terraced building 3 pillars along with trees.
S.No.336/5A1	
S.No.336/5A2	No structures
S.No.336/5B7	Tree only
S.No.336/5C3	No structures

The following are the compensation amount awarded for each land along with 30% solatium and carrying interest charges of 12% per annum from the date of 4(1) notification and award date.

Survey No.	Compensation amount (Rs.)
S.No.336/4T1	Rs. 10,025.05
S.No.336/5A1	Rs.2,07,739.90
S.No.336/5A2	Rs. 1,436.35
S.No.336/5B7	Rs. 12,309.55
S.No.336/5C3	Rs. 36,914.25
Total	Rs.2,68,425.10

Award enquiry notices were sent to all 5 interested persons and all of them except Tmt.Lalitha Subbiah received the notices. The notice sent to Tmt.Lalitha Subbiah was returned undelivered as she was dead.

8. The second respondent further submits that Thiru.R.Balasubramanian had filed a petition for self and on behalf of his brothers and sister for claiming enhanced compensation. But, he has not furnished the extent of interest of each person and details of their legal heirs (son and daughters) of each person. Hence, the compensation payable to them could not be apportioned among the interested persons. Thus, the compensation amount of Rs.2,68,425.10 awarded to these lands is ordered to be kept under Civil Court Deposit (CCD) under Section 31(2) of the Act, as apportionment could not be made among the interested persons. The second respondent further submits that as soon as the above said lands were handed over, the Chennai Metropolitan Development Authority had prepared the layout during 1994 for the Town Centre, so as to cater to the needs of the estimated population of one lakh as designed originally in the proposed Satellite Town. The petitioner's land falls in the Town Centre layout area and

designated for commercial purpose, residential purpose, park, road etc. The second respondent further submits that the roads proposed in the Town Centre layout have been formed and the residential plots were allotted to the General Public in the year 2000. In the un-allotted vacant land, commercial plots fall in 336/5A1, 5A2, 5B7 and 5C3(pt) of Kattankulathur Village, the Power Grid Corporation of India Ltd., have erected towers / grids to draw 400 kv power line, which is passing through the entire length of this vacant land. In view of the above H.T. line alignment, it may not be desirable to allot plot / lands from this vacant land for developments. Therefore, the said portion of vacant lands were reserved for park and playground and was then handed over to Maraimalai Nagar Municipality as open space reservation area free of cost. The second respondent further submits that the following table shows the purpose for which the petitioner's land was apportioned for development in the Town Centre Layout.

Survey No.	Purpose for which reserved / developed
S.No.336/4T1	Purpose for development of 60'0" wide road and since formed as Tarred Road and now public use
S.No.336/5A1	Reserved as open space and reservation area and handed over to the MM Nagar
S.No.336/5A2	Municipality on free of cost, for playground purpose and now under public use.
S.No.336/5B7	
S.No.336/5C3	Developed as residential plot, partly 60'0" wide road and party reserved for park purpose

The second respondent further submits that Thiru.Balasubramanian had submitted a representation to CM Cell dated 05.12.2005 and have called for remarks on representation. The Chennai Metropolitan Development Authority has furnished a detailed remarks along with necessary plans to the Secretary to Government, H & UD Department, recommending the rejection of re-conveyance request vide Lr.No.NTI/329/06, dated 31.06.2006. The Secretary to Government, H & UD Department, in their letter dated 13.02.2007 have rejected the petitioner's request for reconveyance of the said lands. The second respondent further submits that the petitioner again made a representation to Chennai Metropolitan Development Authority, which was received on 26.05.2007 requesting for reconveyance of land in S.No.336/4T1, 5A1, 5A2, 5B7 and 5C3 of Kattankulathur Village. The petitioner's request was rejected by Chennai Metropolitan Development Authority and the same was communicated to the petitioner vide LR.No.NT1/5213/2008, dated 14.07.2008. The second respondent further submits that the Government in their letter No.9818/U D 3 (1)/2009-6, dated 14.09.2009 has enclosed a copy of

representation dated 01.09.2009 received from the petitioner Thiru.S.Balasubramanian and requested to send specific remarks in this matter to Government. In this regard, a detailed reply was sent to the Secretary to Government, H & UD Department, vide their office Lr.No.NT1/2505/2009, dated 22.10.2009 with a request to reject the petitioner's request for re-conveyance of the land under reference. The second respondent further submits that regarding ownership status of the subject lands, which stands in the name of the petitioner and three others as per the revenue registry, the Special Tahsildar (Land Acquisition), M.M.Nagar Schemes has been requested to take necessary action to transfer the ownership in the revenue records in favour of the Chennai Metropolitan Development Authority for the lands bearing S.No.3336/4T1, 5/A1, 5A2, 5B7 & 5CS of Kattankulathur Village vide their office letter No.NT1/2505/2009, dated 22.10.2009.

9. The second respondent further submits that with regard to the various letters and communications filed by the petitioner, it was found that most of the letters were fabricated ones and has been done with the intention to grab the land vested with the CMDA and for misleading this Court. The details of the various letters found in the typed-set and their explanation for the said letters are as follows:-

(i) Sl.No.7 - Page No.11

Lr.No.A4/922/2003, dated 21.01.2003

The letter addressed to the applicant is genuine one wherein it has been informed that the Kattankulathur Village does not fall within Chennai Metropolitan area limit.

(ii) Sl.No.10 - page No.24

Government Lr.No.1052/UD3(1)/04-4, dated 22.02.2006

The above Government letter is not authenticated and has not been communicated to CMDA and CMDA has not received such a letter from the Government.

(iii) Sl.Nos.15 & 16 - Page Nos.38 and 39

Lr.No.R.C.418/2006, dated 24.01.2007 from the ST (LA) MM Nagar Scheme addressed to Chief Executive Officer, CMDA along with FMB sketch.

The above mentioned letter has not been received by CMDA from Special Tahsildar (LA) and not available in the CMDA records.

(iv) Sl.No.17 Page No.40

NOC issued by the ST (LA) MM Nagar Scheme vide Lr.No.Rc.68/2007, dated 06.02.2007.

The lands in S.Nos.336/5A1, 5A2, 5B7, 5C3 & 4T1 of Kattankulathur Village were already acquired for development of

Satellite Town at MM Nagar vide Award No.10/86, dated 19.09.1986 and the possession was taken over in the year 1992. Therefore, NOC issued by the Special Thasildar (LA) MM Nagar schemes is not correct. Further, the correspondences furnished in S.Nos.15 and 17 appear to be contradictory to each other and both the correspondences have been issued by the Special Thasildar (LA) MM Nagar Schemes.

(v) Sl.No.19 page No.43

Lr.No.28955/UD3(2) 2006 dated 19.07.2007 from the Member Secretary, CMDA addressed to the Secretary to Government, H & UD Department.

The letter as stated above, appears to be a bogus one. There is no such file in CMDA and as such, the correspondence sent to the Government in the reference cited above. Further, it is stated that the correspondence issued from CMDA does not bear the Government emblem in it. Thus, the said correspondence is a fabricated one as it is observed that the letter bears the reference number of a Government communication along with the Government emblem issued by the Member Secretary and signed for the Chief Executive Officer.

(vi) Sl.No.20 - Page No.45

Letter No.Nil dated 8.2007 from the Chief Executive Officer, CMDA addressed to the Special Tahsildar (LA) MM Nagar Scheme.

The said communication also appears to be fabricated as such a reference is not available in the records of CMDA. The communication does not have a letter number and the date of the letter is also not mentioned. Further, it is to be informed that none of the correspondences of CMDA is found with the Government emblem.

(vii) Sl.No.25 - Page No.62

Letter No.Nil/2506/09, dated 02.04.2009 from the Chief Executive Officer, CMDA addressed to the Special Tahsildar (LA) MM Nagar Scheme.

The said communication is a genuine one where in the Sl.No.20 - Page No.45 is indicated.

Letter No.Nil dated 8/2007 from the Chief Executive Officer, CMDA addressed to the Special Tahsildar (LA) MM Nagar Scheme has been requested to confirm when the subject lands were handed over to CMDA if not handed over to CMDA, clarify the present status of ownership of the lands in consultation with the Tahsildar, Chengalpet Taluk.

(viii) Sl.No.30 - Page No.73

Letter No.RC.321/2008 A, dated 22.09.2009 from Special Tahsildar (LA) MM Nagar Scheme to the Chief Executive Officer, CMDA.

The said letter is a genuine one and the letter was sent by Special Tahsildar (LA) MM Nagar Scheme and has been received in CMDA on 23.09.2009.

The second respondent further submits that from the above letters and communications, it is apparent that the petitioner has fabricated various letters and communications to grab the lands vested with the Chennai Metropolitan Development Authority. Hence, the second respondent entreats the Court to dismiss the above writ petition.

10. The highly competent counsel Mr.E.K.Kumaresan appearing for the petitioner submits that the father of the petitioner was a Freedom Fighter and he had politically suffered to the extreme level for seeking independence. After independence, the father of the petitioner and 4 others had assigned lands to an extent of 50 acres of land comprised in Survey No.336 in Gudalur Reserved Forest. Out of the said lands, the petitioner's father was assigned 7.83 acres, for which, the first respondent had issued G.O.Ms.No.5993, dated 06.12.1948. Further, the District Collector had issued a patta in the name of the father of the petitioner. From the date of assignment, the father of the petitioner, viz., Late Subbaiah was in possession and raised crops. Thereafter, the petitioner's father had expired on 17.03.1973. Now, the petitioner and other legal-heirs are in occupation of the property, wherein, there are standing crops of gooseberry, ashoka, tamarind, orange, lemon, supporta, coconut, mango and palmyrah trees etc. Under the circumstances, the respondents had initiated Land Acquisition Proceedings in the year 1974 for acquiring a total extent of 123.49 acres including the subject matter of the land. The said Land Acquisition Proceedings were completed in the year 1986, however, the respondents had not strictly adhered to the Land Acquisition Proceedings under the Old Act. The said lands were acquired for the purpose of Neighbourhood Housing Scheme.

11. The highly competent counsel appearing for the petitioner further submits that the respondents had not paid the compensation amount to the petitioner and other legal-heirs, besides the petitioner and other legal-heirs are in possession and carrying out cultivation without any third party interference, including the respondents herein. After the acquisition proceeding was over, the petitioner made a representation to the respondents to release the petitioner's land from the Land Acquisition and the same was rejected without assigning any valid reasons or without conducting any personal enquiry and as such, the rejection order of the respondents is not appropriate. Further, the said lands have not been utilized for the said Housing Scheme purpose. The highly competent counsel further submits that a major portion of the acquired lands have been allotted to Ford Car company i.e., for

industrial purpose. The highly competent counsel further submits that the petitioner had filed a writ petition before this Court and challenged the rejection order of the respondents in W.P.No.36456 of 2006. This Court had directed the respondents to dispose the petitioner's representation after a comprehensive enquiry and the same was not carried out by the respondents. The highly competent counsel further submits that the respondents had filed a counter statement in the earlier writ petition and openly admitted that a portion of the land was allotted to the Ford Company and for other purposes. The said counter statement had been filed in the month of July 2009 and it clearly reveals that the said acquired property remains idle and as such, the initial purpose had not been implemented. The highly competent counsel further submits that the current revenue records viz., patta, chitta and adangal clearly indicates that as of now the properties are standing in the name of the legal-heirs of the Late Subbaiah, who as the father of the petitioner and a Freedom Fighter. The highly competent counsel vehemently pointed out that the acquired properties had not been taken by the respondents and the compensation amount had not been paid to the landowners and as such, the petitioner is entitled to secure a remedy under Section 24(2) of the New Act 30 of 2013. Hence, the highly contempt counsel made a deep request to re-convey the said lands to the petitioner and his blood brothers and sister.

12. The highly competent Mr.M.S.Ramesh, Additional Government Pleader appearing for the first and third respondents submits that on the request of the second respondent, the petitioner's land and others lands were acquired by the third respondent herein and handed over to the second respondent for the purpose of Neighbourhood Housing Scheme and the compensation amount had been assessed to a sum of Rs.2,68,425.10 has been deposited into civil Court as per Section 31(2) of the Land Acquisition Act, 1894. Therefore, the acquired lands are now under the care and custody of the second respondent. The highly competent Additional Government Pleader further submits that the third respondent had acquired the land after adopting the Old Act and strictly followed the necessary legal formalities and as such, there is no lapse in the Acquisition Proceedings. He further submits that the Acquisition Proceedings had been completed in the year 1986. Thereafter, the petitioner made a representation to re-convey the said lands. The said representation well considered and rejected the same after assigning valid reasons stating that the entire acquired properties including the petitioner's land have been utilized for commercial purpose, educational institution, residential purpose and also industrial purpose. After acquiring the said property, if the petitioner is in possession, which amounts to illegal occupation. Hence, the highly competent Additional Government Pleader entreats the Court to dismiss the above writ petition.

13. The highly competent counsel Mr.K.Sampath appearing for the second respondent submits that the petitioner's lands and others lands were acquired under the Old Act by the third respondent herein, who then handed over the said acquired property to the second respondent herein. The Land Acquisition Proceedings had been completed in the year 1986 and an award was passed in Award No.10/86 and the compensation amount was assessed i.e., a sum of Rs.2,68,425.10, which is consisting of land costs, standing crops along with a 30 solatium amount with interest at the rate of 12% per annum and the said compensation amount had been deposited in the civil Court and it is open to the petitioner and others to withdraw the said amount. The highly competent counsel further submits that the petitioner had filed a petition for enhancement of compensation and as such, the question of re-conveying the lands to the petitioner does not arise. Hence, the above writ petition is not maintainable. The highly competent counsel further submits that now the second respondent has implemented the Housing Scheme, which is known as Satellite Town at Maraimalai Nagar. The highly competent counsel further submits that the subject lands are now under the care and custody of the second respondent. He further submits that the second respondent had prepared a layout during the year 1994 for the said purpose and the petitioner's land falls in the Town Centre layout area. He further submits that the acquired land had been laid out into residential plots and allotted to the roads proposed in the Town Centre layout have been formed and the residential plots were already allotted to the general public. Therefore, there is no vacant land since the entire acquired properties had been utilized for the public purpose, such as, residential purpose, economical purpose, High tension line alignment, the Power Grid Corporation of India Limited had also erected towers. Therefore, the above writ petition is not maintainable. Hence, the highly competent counsel entreats the Court to dismiss the above writ petition.

14. From the above discussions, this Court is of the view that:-

(i) The petitioner's father Subbaiah (Late) was a Freedom Fighter and he was allotted an extent of 7.83 acres of land under 5 Survey Numbers, situated at Kattankulathur Village in Kancheepuram District, as per the Government Order in G.O.Ms.No.No.5993, dated 06.12.1948. Accordingly, the Freedom Fighters / political sufferers had occupied the property and enjoying the same as per the said G.O. The said G.O.Ms.No.5993, dated 06.12.1948 has been suitably executed. Under the circumstances, the first respondent had issued a Government Order in G.O.Ms.No.1939, dated 23.08.1974 for acquiring the subject matter of the land, which runs against the earlier Government Order in G.O.Ms.No.No.5993, dated 06.12.1948. Therefore, the Government

Order issued by the first respondent herein for acquiring the lands under the Old Act is not sustainable under law and also not fit for operation. As such, the acquisition proceedings pertaining to the petitioner's land to an extent of 7.83 acres has lapsed.

(ii) The Freedom Fighters, Defence Personnel and their family members are shouldering the security of 125 Crores strong population of India. Therefore, their assets, viz., movable and immovable properties should not be disturbed at any cost. In the instant case, the respondents have acquired the Freedom Fighter's properties for a Neighbourhood Scheme, which is not of paramount importance than the Freedom Fighters, who have contributed and continue to contribute to the safety and security of our entire nation. Could the safe-less and unremitting sacrifices extended by such stalwarts like Mahatma Gandhi and others become obliterated overnight by a simple piece of unconsidered Land Acquisition as mentioned therein?

(iii) The Village Administrative Officer had issued a certificate dated 19.08.2009, stating that the petitioner, his two brothers and a sister are enjoying the subject lands and also obtained a joint patta in their names. It confirms that the petitioner and others are still in occupation. The Village Administrative Officer, who is the most competent Authority to certify regarding the physical possession. As such, the said certificate issued by the Village Administrative Officer is given consideration by this Court. Further, the counter statement filed by the second respondent reveals that the compensation amount had been deposited into civil Court, but the compensation amount had not been paid to the petitioner and the petitioner and other legal-heirs are in physical possession. Hence, the petitioner is entitled to secure relief under Section 24(2) of the New Act 30 of 2013.

(iv) The Land Acquisition Proceedings had been initiated in the year 1974 and it had been completed in the year 1986. The lands have been acquired for the purpose of implementing a Satellite Town at Maraimalai Nagar i.e., purely for residential purpose. However, the counter statement filed by the second respondent reveals that the acquired properties have been utilized for industrial purpose and commercial purpose, which is against the purpose for which, the land has been originally acquired and as such, the Land Acquisition Proceedings have become lapsed.

(v) The Acquisition Proceedings had been initiated in the year 1974 and an extent of 123.49 acres have been acquired for the purpose of Neighbourhood Housing Scheme. The said purpose has not been completed even after a lapse of 28 years and especially, the petitioner's physical possession of the land, so far, had not been taken by the respondents as per the possession certificate issued by the Village Administrative Officer concerned.

(vi) If the petitioner's land to an extent of 7.83 acres is discharged from the Land Acquisition Proceedings, the Neighbourhood Housing Scheme will not be affected. Further, the respondents have not incurred any loss through any investment. Besides, the Satellite Town can be established at any available sites of the Government. In the instant case, the petitioner and his blood relations and his father, viz., Subbaiah (late), Freedom Fighter are cultivating the subject land for about 66 years, hence, it will be extremely a painful act to dislodge them at this juncture.

15. On considering the facts and circumstances of the case and arguments advanced by the learned counsels on all sides and on perusing the typed-set of papers and this Court's view mentioned above as (i) to (vi), the above writ petition is allowed. Consequently, the first respondent's proceedings No.28955/UD/3/2006-6, dated 13.02.2007 is quashed. Further, this Court directs the respondents to re-convey the lands in Survey No.336 in Sub Division 4T1, 5A1, 5A2, 5B7 and 336/5C3, in total, to an extent of 7.83 acres at No.56, Kattankulathur Village, Kancheepuram District and grant no objection to continue to own possess and enjoy the said properties without any encumbrance under the provisions of the Land Acquisition Act within a period of two months from the date of receipt of a copy of this order. The respondents are at liberty to withdraw the compensation amount from the civil Court, wherein it has been deposited.

16. In the result, the above writ petition is allowed. There is no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/- सत्यमेव जयते
Assistant Registrar

//True Copy//

Sub Assistant Registrar

r n s

To

1. The Secretary,
Government of Tamil Nadu,
Housing and Urban Development Department,
Fort St. George, Chennai - 600 009.

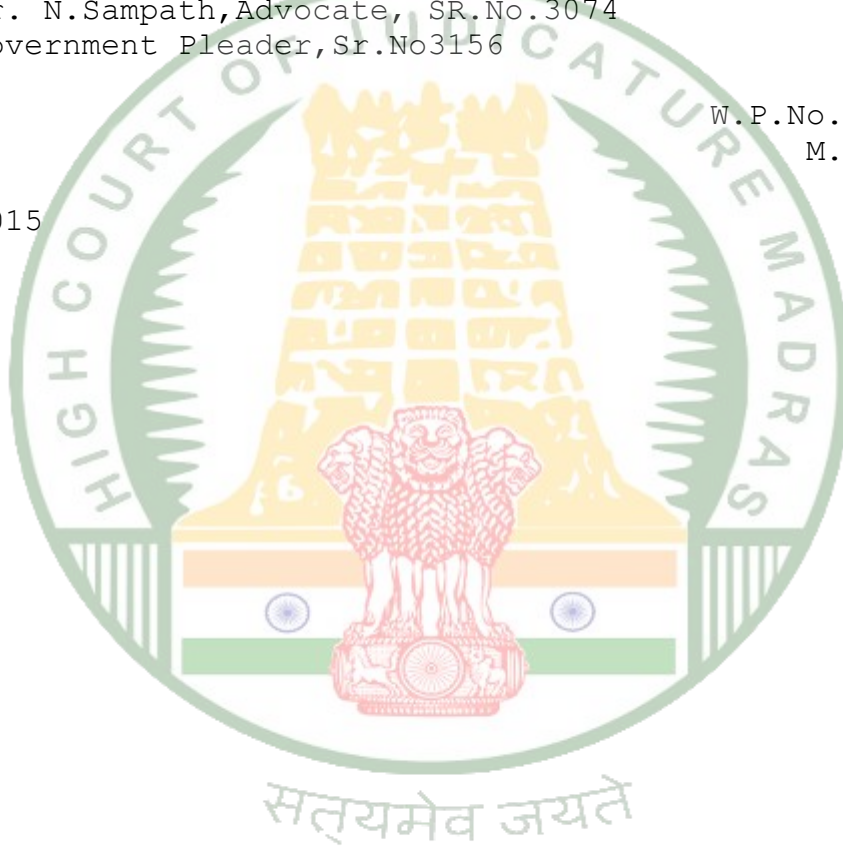
2. The Member Secretary,
The Chennai Metropolitan Development Authority,
Thalamuthu Nadarajar Building,
Egmore, Chennai.

3.The Special Tahsildar,
Maraimalar Nagar Schemes (Law Acquisition),
Kattankolathur - 603 203.

1 cc to Mr. E.K.Kumaresan, Advocate, SR.No.3276
1 cc to Mr. N.Sampath, Advocate, SR.No.3074
1 cc to Government Pleader, Sr.No3156

W.P.No.7664 of 2010 &
M.P.No.2 of 2010

rj (co)
pmk.9.2.2015



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