

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 30.03.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.9074 to 9077 of 2015 and
M.P.Nos.1 to 1 of 2015

P.Kothandan ... Petitioner in W.P.No.9074 of 2015
K.Parthasaradhi ... Petitioner in W.P.No.9075 of 2015
K.Nagasamy ... Petitioner in W.P.No.9076 of 2015
K.A.Manoharan ... Petitioner in W.P.No.9077 of 2015
vs.

1. The Superintending Archaeologist/Competent Authority,
The Archaeology Survey of India
Government of India,
Chennai Circle,
Fort St. George, Secretariat,
Chennai- 600 009
2. The Principal Secretary & Commissioner,
Department of Archaeology,
Government of Tamilnadu,
Tamil Valarchi Vaalagam
Halls Road, Egmore,
Chennai - 600 008
3. The Regional Director,
Archaeology Survey of India
KSIMC Building,
Industrial Estate, Rajaji Nagar,
Bangalore - 560 044 सत्यमेव जयते
4. The District Collector,
Kancheepuram.
5. The Revenue Divisional Officer,
o/o the Revenue Divisional Officer,
Tambaram.
6. The Tahsildhar
Taluk Office,
Alandur

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7. The Commissioner,
Pallavaram Municipality,
Pallavaram, Chennai - 600 043

8. The Assistant Commissioner of Police
Pallavaram Police station,
Pallavaram,
Chennai - 600 043

....Respondents in W.P.nos.9074,
9075, 9076 and 9077 of 2015

Writ Petitions filed under Article 226 of the Constitution of India praying for a issuance of Writ of Mandamus directing the respondents 4 to 8 herein to conduct joint survey along with the respondents 1 to 3 for the purpose of earmarking the monument site in Survey No.56 and 63, the prohibited area within 100 meters and regulated area within 200 meters of the monumental site in Zamin Pallavaram village, Alandur Taluk, Kancheepuram District and consequently direct the 1st respondent to consider the applications of the petitioners dated 05.06.2011; 01.12.2011; 04.07.2012 and 10.02.2011 respectively in respect of issuance of No Objection Certificate for putting up the constructions in Plot No.3 & 4 of Manickam Nagar, situated in New Survey No.172/2A1A2 and Plot No.88 of Subham Nagar situated in Survey No.19/2 of Zamin pallavaram Village, Alandur Taluk; Plot No.36, situated in New Survey No.78/2D of Perumal nagar Layout, Zamin Pallavaram Village, Alandur Taluk and Kancheepuram District; Plot No.2, situated in New Survey No.280/4-B1 of Keelkattalai Village, (Madipakkam Part-II), Indian Colony, Alandur Taluk, Kancheepuram District; land measuring an extent of 7026 sq.ft situated in Old Survey No.34/5, New Survey No.47/2 in Ward 'B'Block 49 of Zamin Pallavaram Village, Alandur Taluk, Kancheepuram district respectively.

For Petitioners : Mr.G.Arulmurugan

For Respondents : Mr.M.L.Mahendran
Government Advocate

C O M M O N O R D E R

Heard Mr.G.Arulmurugan, learned counsel appearing for the petitioners and Mr.M.L.Mahendran, learned Government Advocate appearing for respondents and perused the materials placed on record. With the consent on either side, the Writ Petitions themselves are taken up for final disposal at the admission stage.

2. The petitioners in these Writ Petitions state that they own the properties as mentioned in the prayer sought for in the writ petitions. The petitioners are said to have purchased the lands in the year 2007 by registered sale deeds. The petitioners now proposed

to put up construction and when they approached the planning authorities, for putting up construction, they were informed that land falls within the regulated area as per Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Act, 2010. Therefore, in terms of the said enactment, the petitioner was directed to obtain No Objection Certificate from the competent authority under the Act. In this regard, the petitioner has filed an application seeking permission under Form No.I as per Rule 11 of the said Rules. The application was processed and the competent authority, namely, Archaeological Survey Department is ready and willing to undertake survey, provided it should be a joint survey with the Revenue Officials of the Kancheepuram District. In fact, the Tahsildar, Alandur vide proceedings dated 29.11.2011 fixed a joint survey on 13.12.2011.

3.Further, it appears that due to the attitude of local residents, the survey could not be conducted. The petitioners have been repeatedly representing to the authorities so as to enable them to give No Objection Certificate. The petitioners representation are pending and the competent authority under the Act vide proceedings dated 25.06.2014 informed the petitioner that the joint survey for the Centrally Protected Site, Megalithic Cairns and Cists showing clear structural postures is not carried by Archeologies with the State Revenue authorities and only after completion of joint survey with the Revenue Authorities, the applications in question will be processed for further action. Hence the petitioners were advised not to put up any construction till the No Objection Certificate is issued. Thus, it appears that the Revenue Officials have to collaborate with the competent authority under the Act for the purpose of conducting joint survey. Since the same has not been done, the petitioners are before this Court by way of these Writ Petitions seeking the aforementioned relief.

4.After hearing the learned counsel appearing for the respondents 4 to 8, this Court is of the view that unless and until the Revenue Officials agree for joint survey along with officers of the competent authority of the 1st respondent/Department, the survey cannot be conducted. Therefore, at this stage, there will be no necessity to hear the 1st and 3rd respondents in the subject issue, since it is wholly within the realm of the Revenue Department at Kancheepuram District.

5.In the light of the above, there shall be a direction to the petitioners to submit a representation to the District, Collector, Kancheepuram along with a copy of this order, clearly setting out their grievances within a period of two weeks from the date of receipt of copy of this order and on receipt of the same, the District Collector, Kancheepuram District shall convene a meeting and the Revenue Officials shall assess the local situation and submit a

appropriate report to the 1st respondent. If there is no other legal impediment, then, the District Collector shall pass appropriate orders/direction to the Tahsildar and intimate the respondents and on such intimation, the 1st respondent shall join in the joint survey, if there is no other legal impediment. The said direction shall be complied by the District Collector, Kancheepuram District within a period of three months from the date on which the representation is submitted.

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

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssd

To

1. The Superintending Archaeologist/Competent Authority,
The Archaeology Survey of India
Government of India,
Chennai Circle,
Fort St. George, Secretariat,
Chennai- 600 009
2. The Principal Secretary & Commissioner,
Department of Archaeology,
Government of Tamilnadu,
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o/o the Revenue Divisional Officer,
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7. The Commissioner,
Pallavaram Municipality,
Pallavaram, Chennai - 600 043

8. The Assistant Commissioner of Police
Pallavaram Police station,
Pallavaram,
Chennai - 600 043.

1 cc to Mr. G.Arul Murugan, Advocate, SR.No.17698
1 cc to Government Pleader, Sr.No.17944

W.P.Nos.9074 to 9077 of 2015 and
M.P.Nos.1 to 1 of 2015

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