

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24.08.2015

CORAM

THE HONOURABLE MR. JUSTICE M.M.SUNDRESH

W.P.Nos.29862 of 2010  
and 18480 of 2015  
and connected miscellaneous petitions

1.Kannammal  
2.Kathiravan

.. Petitioners in  
W.P.No.29862 of 2010

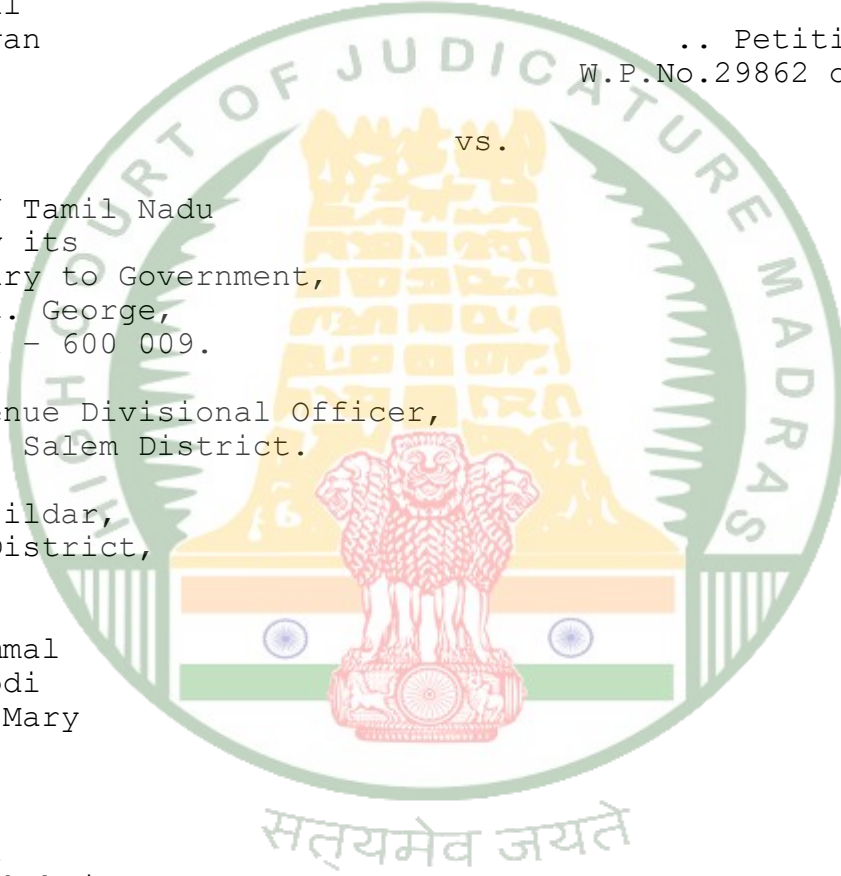
vs.

1.State of Tamil Nadu  
Rep. By its  
Secretary to Government,  
Fort St. George,  
Chennai - 600 009.

2.The Revenue Divisional Officer,  
Mettur, Salem District.

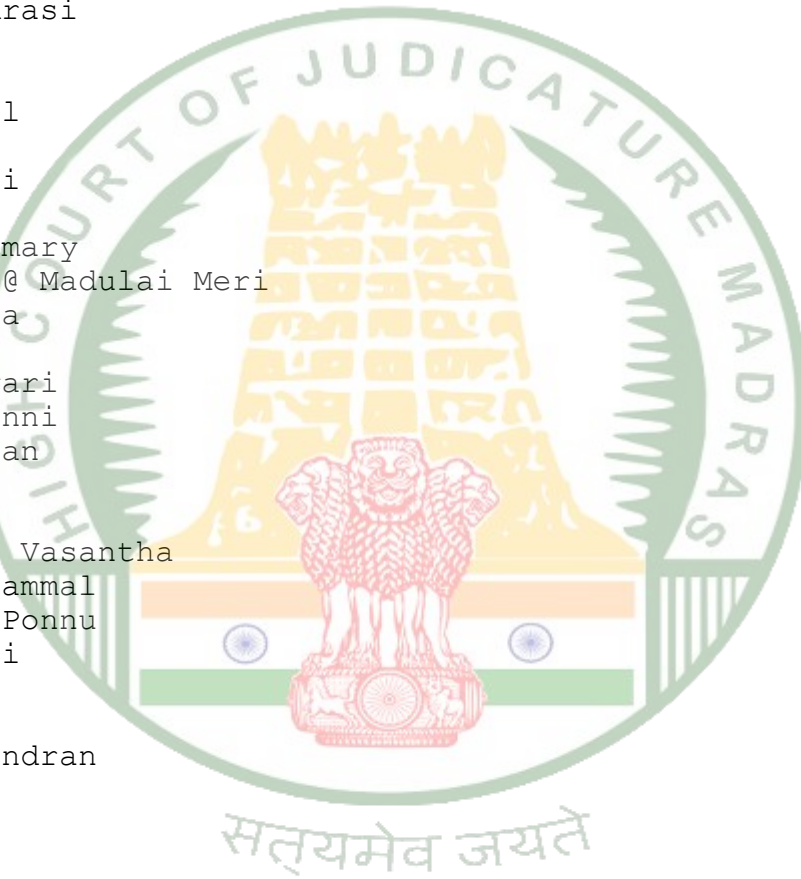
3.The Tahsildar,  
Salem District,  
Salem.

4.R.Mariammal  
5.R.Poonkodi  
6.Fathima Mary  
7.Mariya  
8.A.Pappa  
9.Priya  
10.K.Gowri  
11.Dhanalakshmi  
12.Motcha Mary  
13.Palani Ammal  
14.D.Rajammal  
15.G.Lakshmi  
16.J.Radha  
17.Y.Mary  
18.M.Loortha Mary  
19.S.Vijaya  
20.M.Rathinammal  
21.M.Amaravathi  
22.M.Arokiya Mary  
23.S.Malliga



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24.M.Vasanthi  
25.V.Sujatha  
26.A.Alphonse Mary  
27.S.Vimal Rani  
28.R.Thangammal  
29.R.Latha  
30.A.Rajamani  
31S.Kavitha  
32.G.Latha  
33.M.Rajammal  
34.M.Saroja  
35.M.Tamil Arasi  
36.L.Pugal Arasi  
37.B.Priya  
38.M.Vijaya  
39.S.Ellammal  
40.P.Kamala  
41.S.Parvathi  
42.S.Vijaya  
43.L.Kanikaimary  
44.S.Mariya @ Madulai Meri  
45.S.Shyamala  
46.N.Dhanam  
47.D.Nageshwari  
48.M.Velankanni  
49.L.Krishanan  
50.R.Sunaina  
51.E.Sumathi  
52.Sumathi @ Vasantha  
53.K.Venkattammal  
54.M.Chinna Ponnu  
55.M.Balamani  
56.P.Kamala  
57.S.Vijaya  
58.M.Ravichandran  
59.A.Ramaee  
60.M.Saroja  
61.P.Pushpa  
62.R.Kondammal  
63.B.Thenmozhi  
64.S.Santhanam  
65.G.Vadivel  
66.S.Chitra  
67.R.Senny @ Selvi  
68.A.Venkatammal  
69.S.Gangadevi  
70.C.Krishnaveni



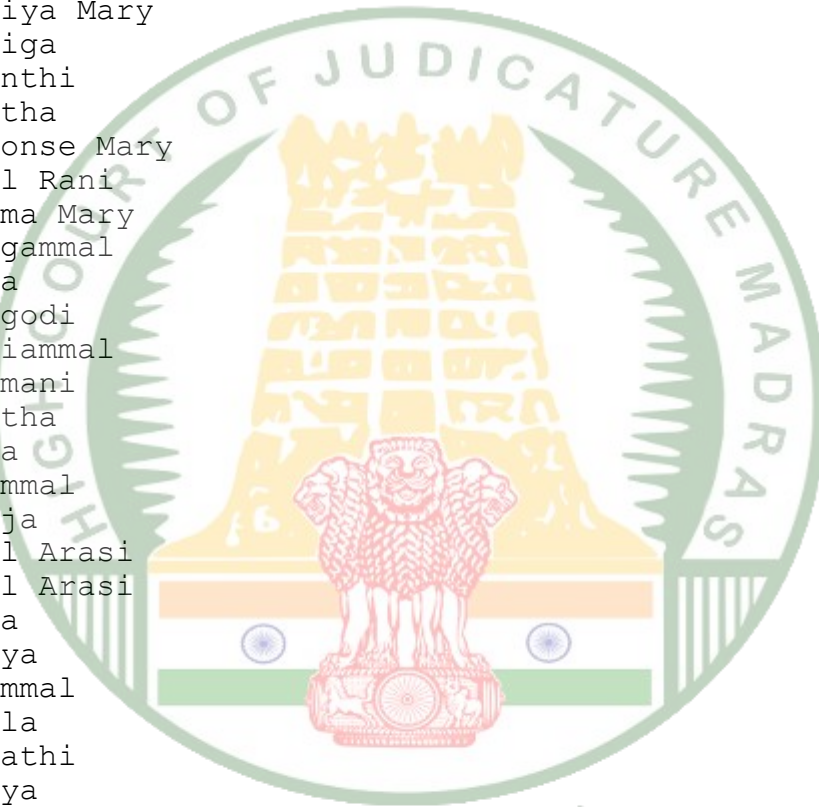
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.. Respondents in  
W.P.No.29862 of 2010

R4 to R13 impleaded as per order dated 06.09.2013 in  
M.P.No.1/2013 in W.P.No.29862/2010.

R14 to R70 are impleaded as per order dated 12.08.2015  
in M.P.No.1/2015 in W.P.No.10264/2011.

- 1 D.Rajammal
- 2 K.Gowri
- 3 G.Lakshmi
- 4 J.Radha
- 5 Y.Mary
- 6 M.Loortha Mary
- 7 S.Vijaya
- 8 M.Rathinammal
- 9 M.Amaravathi
- 10 M.Arokiya Mary
- 11 S.Malliga
- 12 M.Vasanthi
- 13 V.Sujatha
- 14 A.Alphonse Mary
- 15 S.Vimal Rani
- 16 A.Fatima Mary
- 17 R.Thangammal
- 18 R.Latha
- 19 R.Poongodi
- 20 R.Maariammal
- 21 A.Rajamani
- 22 S.Kavitha
- 23 G.Latha
- 24 M.Rajammal
- 25 M.Saroja
- 26 M.Tamil Arasi
- 27 L.Pugal Arasi
- 28 B.Priya
- 29 M.Vijaya
- 30 S.Ellammal
- 31 P.Kamala
- 32 S.Parvathi
- 33 S.Vijaya
- 34 L.Kanikaimary
- 35 S.Mariya @ Madulai Meri
- 36 S.Shyamala
- 37 S.Dhanalakshmi
- 38 N.Dhanam
- 39 D.Nageshwari
- 40 S.Motchmery
- 41 M.Velankanni
- 42 L.Krishanan
- 43 R.Sunaina
- 44 E.Sumathi
- 45 S.Priya
- 46 S.Sumathi @ Vasantha
- 47 K.Venkattammal
- 48 M.Chinna Ponnu



49 M.Balamani  
50 B.Priya  
51 P.Kamala  
52 S.Vijaya  
53 C.Palaniammal  
54 M.Ravichandran  
55 A.Ramaee  
56 M.Saroja  
57 P.Pushpa  
58 R.Kondammal  
59 M.Pappa  
60 B.Thenmozhi  
61 S.Santhanam  
62 G.Vadivel  
63 S.Chitra  
64 R.Senny @ Selvi  
65 A.Venkatammal  
66 S.Gangadevi  
67 C.Krishnaveni

.. Petitioners in  
W.P.No.18480 of 2015

Vs

1 Government of Tamil Nadu  
Rep by its Secretary to Government,  
Revenue Department,  
Fort St.George Chennai 9  
2 The District Collector  
Salem District Salem  
3 The Revenue Divisional Officer  
Mettur Salem District  
4 The Tahsildar  
Mettur Salem District  
5 The Special Tahsildar  
(Natham Settlement Scheme) Mettur Salem  
District  
6 The Deputy Superintendent of  
Police Mettur Salem District  
7 Kathiravan

.. Respondents in  
W.P.No.18480/2015

PRAYER IN W.P.NO.29862/2010 : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the rejection order of the 1st respondent in Letter No. 14530/Ni. Mu. 3(2)/2009-13 dt

24.11.2010 quash the same and direct the 1st respondent to assign the land and issue patta for the land in S.No.988/9 Sampalli Village Mettur Taluk Salem District in the name of the petitioners.

PRAYER IN W.P.NO.18480/2015 : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 2 to 5 to implementing the Natham Settlement Scheme in Survey No.988/1 at Sampalli Village Mettur Taluk Salem District by handing over the possession of land to the Pattatharar/Petitioner in view of the petitioners representation dt 28.4.2015 within a limited time frame.

W.P.No.29862/2010

For Petitioner : Mr.S.Doraisamy

For Respondents: Mrs.P.Rajalakshmi,  
Government Advocate for R1 to R3  
Mr.P.Valliappan for R4 to R13.

W.P.No.18480/2015

For Petitioner : Mr.A.Esakkiappan

For Respondents: Mrs.P.Rajalakshmi,  
Government Advocate for R1 to R6  
Mr.S.Duraisami for R7

#### COMMON ORDER

As the issues involved in both the writ petitions are one and the same, these writ petitions have been taken up together for disposal by a common order.

2. W.P.No.29862 of 2010 has been filed by the petitioners challenging the order of the respondent No.1 therein dated 24.11.2010 by which, the request made for assigning an extent of 14.0.35 Hectares of land in S.No.988/9 in Sampalli Village, Mettur Taluk, Salem District, was rejected.

3. W.P.No.18480 of 2015 has been filed by the petitioners seeking a direction to the official respondents therein to implement the Natham Settlement Scheme by which pattas have been issued.

4. The petitioners in W.P.No.29862 of 2010 are said to be in possession and enjoyment of the specific extent of land viz., 14.0.35 Hectares in S.No.988/9 in Sampalli Village, Mettur Taluk, Salem District. Proceedings have been initiated against them under the Tamil Nadu Land Acquisition Act. Accordingly, the order of eviction was issued. Their further appeal was rejected on 05.05.2008. A challenge was made before this Court in W.P.No.12857 of 2008 dated 01.04.2009. The writ petition filed was dismissed as not pressed with the following observations:

"4. Per contra, the learned Special Government Pleader would submit that as a matter of fact, a Notice under Section 7 of the Act was issued and proper enquiry was also held and only thereafter, order under Section 6 of the Act was passed. She would further submit that the lands in question are required for giving patta to landless poor and so the Government has no intention to grant patta in favour of the petitioners.

5. At this juncture, the learned counsel for the petitioner would submit that he does not press for any adjudication in this writ petition, in view of the submissions made by the learned Special Government Pleader. He would however, submit, that petitioners may be given an opportunity to make a representation to the Government seeking grant of patta in their favour on the basis of the recommendation of the Tahsildar, Mettur. He would further submit that until such order is passed by the Government on the representation of the petitioners, there may not be any eviction of the petitioners from the property in question.

6. Having regard to the above, the writ petition is dismissed as not pressed. No costs. However, a liberty is given to the petitioners to make a representation to the Government within a period of 1 (one) week from today seeking for grant of patta on the basis of the recommendations of the Tahsildar, Mettur Taluk, Mettur. If any such representation is made, the Government is directed to consider the same and to pass appropriate orders strictly in accordance with law within a period of 4 (four) weeks thereafter. It is further directed that until final order is passed in the said representation, the respondents shall not enforce the impugned order made under Section 6 of the Act. If no representation is made by the petitioners within the above time frame, there shall not be any impediment for the respondents to proceed further on the basis of the impugned order made under Section 6 of the Act. Consequently, M.P.Nos.2 & 3 of 2008 are closed."

5. Thereafter, the petitioners made a representation. The petitioners' representation was rejected by the order dated 24.11.2010 on the following grounds:

(i). The land has been classified as Grama Natham and therefore, no patta can be given to do agricultural operations.

(ii). The petitioners are having agricultural lands in Patta No.78 in S.No.335/4B with an extent of 1.73.5 Hectares Punja land and Patta No.1251 in S.No.337/4 with an extent of 0.53.0 Hectares punja land, totaling 5.57 Acres.

(iii). As the petitioners are having lands and living above the poverty line and they are not landless poor, coupled with the fact that no patta can be issued for the purpose of being agricultural operations over Grama Natham land, the request made by the petitioners was rejected.

6. Pursuant to the said order, the respondent No.1 sent a communication to the District Collector, Salem District dated 24.07.2006 stating that as the petitioners in W.P.No.29862 of 2010 not being landless poor and having sufficient lands, their request cannot be considered and hence, the said extent of 14.0.35 Hectares in S.No.988/9 will have to be placed in the Government Records and as per the proceedings of the Tahsildar, Mettur dated 21.12.2005, the same will have to be allotted to 130 washermen with the specific extent of 1.5 Cent each for the purpose of putting up houses. Thereafter, the petitioners in W.P.No.18480 of 2015 made a representation to implement the same. By the proceedings dated 28.04.2015, the Tahsildar, Mettur has informed the Deputy Superintendent of Police to take appropriate action against the petitioners in W.P.No.29862 of 2010 as they are creating trouble to the beneficiaries.

7. The learned counsel appearing for the petitioners in W.P.No.29862 of 2010 submitted that what the petitioners in W.P.No.18480 of 2015 seek is the assignment of land in S.No.988/1, therefore, the proceedings cannot be made applicable to S.No.988/9. A further submission has been made that the respondent No.1 has not taken into consideration all the relevant materials before passing the impugned order dated 24.11.2010.

8. Per contra, the learned counsel appearing for the writ petitioners in W.P.No.18480 of 2015, who also filed an application to implead, which has also been allowed by this Court, submitted that there is no dispute about the identity of the lands. There are no other lands other than the lands for which patta have been issued for 130 persons. The petitioners, in W.P.No.29862 of 2010, being the rich pattadars are standing in the way of poor persons putting up constructions to make out a living.

9. The learned Government Advocate submits that there is no dispute on the facts and the writ petitioners in W.P.No.29862 of 2010 are seeking the relief as similar to that of the relief sought for in W.P.No.18480 of 2015.

10. Coming to the identity of the land, it appears that the writ petitioners in W.P.No.29862 of 2010 have not raised this plea in the affidavit filed in support of this writ petition nor in any proceedings before the respondents. Perhaps it can be said that there was no need to raise the plea till the filing of the second writ petition by the petitioners in W.P.No.18480 of 2015 apart from the impleading petition filed in the earlier one. However, a perusal

of the documents available before this Court would show that there is no dispute regarding the identity of the land. In the proceedings dated 26.11.2010, the respondent No.1, while reiterating the reasons assigned in the order dated 24.11.2010, has stated that the land situated in Survey No.988/9 with an extent of 4.0.35 Hectares in Sampalli Village, Mettur Taluk, Salem District has been assigned in favour of 130 washer men, especially direction has been issued to the District Collector, Salem District to make necessary entry in the records and implement the proceedings of the Tahsildar dated 21.12.2005 in this regard. It has also been stated that appropriate steps will have to be taken to put up construction in the place earmarked for them, apart from giving sufficient protection and also inform the same to the Government. Thus, the said proceedings in Letter No.14530/Ni. Mu 3(2)/2009-14 dated 26.11.2010 makes the position very clear that the lands over which the petitioners in W.P.No.29862/2010 are interested are the subject matter of the assignments/pattas given in favour of 130 washermen. There is absolutely no dispute on this.

11. Even otherwise, this Court does not find any perversity in the order passed by the respondent No.1, while rejecting the request of the petitioners. It is stated that the eviction proceedings initiated against the petitioners have become final. A perusal of the order passed by this Court earlier, referred to supra, would show that in view of the specific stand taken by the learned Government Advocate, communicating the stand of the official respondents, the writ petition was permitted to be withdrawn. That is the reason why, the petitioners moved the Government for seeking patta. Issuance of a patta is not a matter of right. There is absolutely no contra material to come to the conclusion that the petitioners are otherwise entitled to get patta merely based upon their encroachment. A factual finding has been given by the 1<sup>st</sup> respondent stating that no assignments of Grama Natham can be given for agricultural purpose, that too, when the persons are already having lands. A mere enjoyment of a land not belonging to a party would not give any right. There is also a public interest involved. The official respondents have assigned the land and issued patta in favour of 130 washermen. The said proceedings was initiated as early as on 21.12.2005 and more than a decade has lapsed. The said proceedings has not been challenged. Since then the communication of the Tahsildar to the Superintendent of Police, Mettur also shows that the petitioners in W.P.No.29862/2010 are standing in the way of 130 washermen from enjoying the fruits of the patta issued in their favour. Thus, the contention that the lands are different, is only an after thought. In any case, the petitioners have not made out a case for issuance of patta as sought for by them. There is absolutely no contra material provided by the petitioners about their ownership of other lands.

12. Considering the above, this Court is of the view that W.P.No.29862 of 2010 is liable to be dismissed. Accordingly, the

same is dismissed. Consequently, W.P.No.18480 of 2015 is allowed by directing the respondents 2 to 5 to take appropriate steps to implement the Natham Settlement Scheme to the landless poor and the assignment/pattas are given effect to. The above exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-  
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

vsm

To

- 1.The Secretary  
Government Of Tamil Nadu  
Fort St. George,  
Chennai - 600 009.
- 2.The Revenue Divisional Officer,  
Mettur, Salem District.
- 3.The Tahsildar,  
Salem District,  
Salem.
- 4.The District Collector  
Salem District Salem
- 5.The Tahsildar  
Mettur Salem District
- 6.The Special Tahsildar  
(Natham Settlement Scheme) Mettur,  
Salem District
- 7.The Deputy Superintendent of  
Police Mettur Salem District

+1 cc to Mr.P.Valliappan, Advocate, sr.44985  
+1 cc to Mr.S.Doraisamy, Advocate, sr.44954  
+2 ccs to Mr.A.Esakkiappan, Advocate, sr.44926  
+1 cc to The Government Pleader, sr.45139

W.P.Nos.29862 of 2010  
and 18480 of 2015

ev co, kra 9/9