

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 08.11.2016

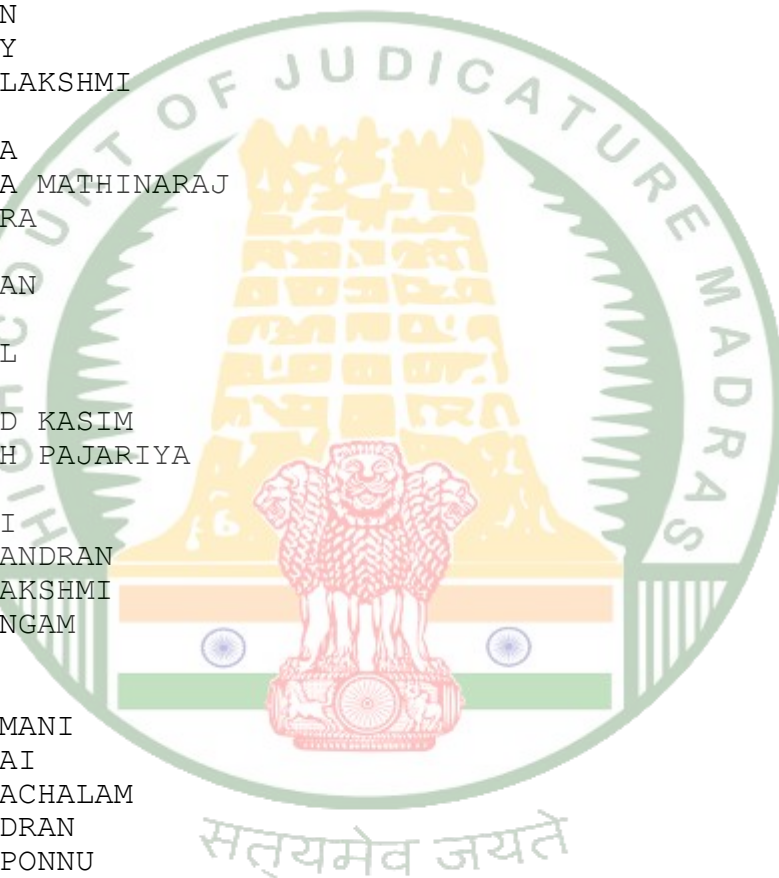
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THE HON'BLE MR.JUSTICE M.S.RAMESH

W.P. No.2722 of 2013

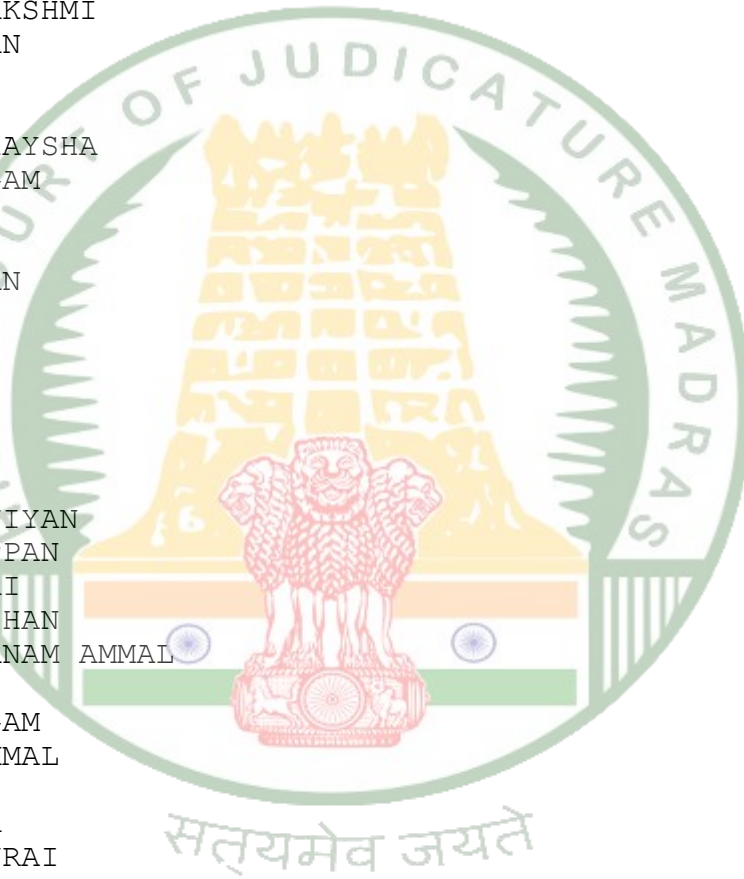
and MP.No.1 of 2013

1 R.KESAVAN
2 A.MOORTHY
3 R.GEETHALAKSHMI
4 K.SELVI
5 P.KAMSALA
6 R.FATHIMA MATHINARAJ
7 R.SUBATHRA
8 D.VIJAYA
9 M.GOVINDAN
10 N.SATHYA
11 J.RAYCHAL
12 R.GOPAL
13 N.MOHAMED KASIM
14 A.LAILATH PAJARIYA
15 A.SAROJA
16 M.KANNAGI
17 C.RAMACHANDRAN
18 S.SUBHULAKSHMI
19 V.SIVALINGAM
20 S.RADHA
21 R.SHEELA
22 K.THANGAMANI
23 B.ELUMALAI
24 M.VENKADACHALAM
25 R.SUGAENDRAN
26 M.CHINNAPONNU
27 G.BASKAR
28 T.RAMAKRISHNAN
29 N.KARTIKEYAN
30 K.RAJENDRAN
31 M.GNANARAJ
32 J.MURUGAN
33 N.PONNUSAMY
34 M.RAJKUMAR
35 PADMAVATHY
36 T.SUBULAKSHMI
37 V.BAKKIYAM
38 N.MALLIGA
39 V.GOMATHI



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40 A.SUBRAMANI
41 K.KALIVARATHAN
42 M.RAJESHWARI
43 B.PREMAVATHY
44 N.MANI
45 K.KRISHNAMOORTHY
46 R.YASOTHA
47 A.RANJITHAM MARY
48 D.LAKSHMANAN
49 S.ELUMALAI
50 S.KALAIVANI
51 P.DEVAR
52 G.VIJAYALAKSHMI
53 R.MANOCHARAN
54 S.BHAVANI
55 J.BABY
56 K.RAHAMETHAYSHA
57 A.MAHALINGAM
58 K.VIJAYA
59 P.PREMA
60 C.JAYARAMAN
61 P.PRABHU
62 N.UMA
63 P.SARAJA
64 M.RAJARAM
65 G.VASU
66 G.SAVITHA
67 N.SUBRAMANIYAN
68 K.KANNIYAPPAN
69 K.ANNAMALAI
70 C.RANGANATHAN
71 M.POONGAVANAM AMMAL
72 C.ARJUNAN
73 M.RAMALINGAM
74 J.PALANIAMMAL
75 D.RAVI
76 A.VASANTHA
77 D.DHARMADURAI
78 D.PANCHAVARNAM
79 C.KANNIYAPPAN
80 V.VENDAMMAL
81 N.RADHAKRISHNAN
82 R.PANDURANGAN
83 R.SOUNDRY
84 R.SAMBANGI
85 N.YAMUNABAI
86 R.SAGURBANU
87 J.MOORTHY
88 S.SHANKAR
89 K.KALA
90 N.MURUGESAN



91 S.PAPAAMMAL
92 P.VALLIAMMAL
93 N.PERIYASAMY
94 K.KRISHNAMOORTHY
95 K.VELLIAMMAL
96 C.DHANASEKAR
97 K.PAULRAJ
98 S.RAJESHWARI
99 V.ELANGOVAN
100 S.RAMMAIYAN

ALL RESIDING AT COLLECTOR NAGAR
GUDAPPAKKAM VILLAGE POONAMALLEE TALUK
THIRUVALLUR DISTRICT.

.. Petitioners

Vs

1 THE GOVERNMENT OF TAMIL NADU
REP. BY ITS SECRETARY REVENUE DEPARTMENT
FORT ST. GEORGE CHENNAI-9.

2 THE DISTRICT COLLECTOR
OFFICE OF THE COLLECTORATE THIRUVELLORE
THIRUVELLORE DISTRICT.

3 THE TAHSILDAR
POONAMALLEE OFFICE OF THE TAHSILDAR
POONAMALLEE THIRUVALLORE DISTRICT.

4 THE VILLAGE ADMINISTRATIVE
OFFICER GUDAPAKKAM VILLAGE POONAMALLEE
TALUK THIRUVALLUR DISTRICT. ...Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus to direct the respondents particularly the District Collector, Thiruvellore District, The Tahsildar, Poonamallee Taluk the Village Administrative Officer, Gudapakkam Village, the respondents 2 to 4 not to take any coercive steps in evicting the petitioners in survey No.341 at Collector Nagar Gudapakkam Village, Poonamallee Taluk, Thiruvellore District from their plots and consequently direct the respondents 2 and 3 to issue patta to the petitioners in respect of the plots under their occupation in Survey No.341 at Gudapakkam Village, Poonamallee Taluk, Thiruvellore District.

For Petitioners : Mr.K.Balakrishnan.

For respondents : Mr.R.Govindasamy.
Spl.GP for R1 & R4.

ORDER

Heard Mr.K.Balakrishnan, learned counsel for the petitioner and Mr.R.Govindasamy, learned Special Government Pleader appearing for the respondents 1 to 4.

2.The petitioners were residents of the Porur lake Poramboke land who were evicted by the Collector of Kancheepuram on the assurance that they will be provided with alternative accommodation by the Government. Subsequently, the petitioners were rehabilitated with an alternative site on 03.12.2006 by the second respondent at S.No.341/1 at Gudapakkam Village, Poonamallee Taluk, Thriuvellore District.

3.The learned counsel for the petitioner would submit that though they have been living in the alternative site for the past seven years, the Government authorities are now threatening to evict them from the respective plots. Under such circumstances, they have given a joint representation on 08.09.2012, and since, no orders have been passed on the said representation, the petitioners have filed the present writ petition before this Court.

4.The learned counsel for the petitioner would also submit that identically placed persons who are residing in the lands adjoining to Porur lake and who have been rehabilitated with the alternative sites in S.No.341 had also filed writ petition for the similar relief before this Court, on the same cause of action. This Court, by an order made in batch of writ petitions in WP.No.27429 of 2012 etc., had held as follows :-

"2. The case of the petitioners are that while they were residing at Lake Poromboke, Porur, Kancheepuram District and they were evicted by the District Collector, Kancheepuram on the assurance that they will be given alternate site by the Government. The petitioners were evicted on 26.11.2006 and the Tahsildar Ambattur issued a token in the name of "Porur Lake land occupier and evictor card" on 03.12.2006. Thereafter, the District Collector, Thiruvellore and the Tahsildar, Poonamallee, gave one cent plot to each of the petitioners in Kudapakkam Village, Poonamallee as alternate site and the above plots were given to about 2486 persons. According to the petitioners they are residing in the said plots after constructing houses for nearly 7 years. According to impleaded respondents 5 to 31, they are members of an Association which filed W.P.No.11238 of 2011 before this Court prayed for a direction to the respondents therein to take action against encroachers who have encroached upon the land in

Survey No.341, Kudapakkam Village, Poonamalle Taluk, Thiruvallur District. The First Bench of this Court by order dated 25.04.2012 disposed of the above said Writ Petition and other connected matters by observing as follows:

"2. The case of the petitioner in the first writ petition is that the Government of Tamil Nadu by G.O.Ms.No.966, dated 22.4.1946 promised to provide house sites and cultivable lands to Ex-servicemen, who participated in the Second World War. Pursuant to the said Government Order, several Co-operative Societies were formed to streamline the allotment of house sites and cultivable lands to the Ex-servicemen. The fourth respondent is one of the societies, which came into existence in 1946. It is stated that the Government passed various orders regarding the scheme for providing house sites and cultivable lands to Ex-servicemen and under the scheme the Ex-servicemen or their descendents should join as a member of the society formed for the said purpose and house sites and cultivable lands would be allotted to them only through the Co-operative Society concerned.

3. The further case of the petitioner is that 680.04 acres of land has been allotted by the Government to the fourth respondent society for being distributed to the Ex-servicemen for cultivation. Each member was allotted six acres of land for cultivation and a house site measuring about 5 ½ cents in S.No.341 of Koodapakkam Village. However, the second respondent - District Collector is alleged to have forcefully taken control of 48 acres of land in S.No.341 of Koodapakkam Village for providing house sites for those who were evicted from Porur lake area by the District Revenue Administration. It is stated that various writ petitions being W.P.Nos.10160 to 10166 of 2007 and 23802 to 23807 of 2007 have been filed by various allottees which are tagged along with the present writ petition. It is alleged that of late, men are attempting to encroach the land and the house sites allotted to the members of the petitioner society. In paragraph 14, it is

stated that the members of the petitioner-society are unable to initiate civil and criminal action since pattas for the lands are yet to be given to them.

4. From the aforesaid facts, three things are clear. Firstly, the Government has proposed to settle the land to the members of the Society comprising of Ex-servicemen under a scheme. Secondly, no pattas in respect of the lands sought to be allotted to the members of the society comprising of Ex-servicemen have been granted to them and thirdly, various writ petitions filed by the members of the petitioner society, are still pending. The petitioner also has stated that since the members of the petitioner society have not acquired title over the land for want of patta to be granted by the Government, they are not in a position even to file civil suits in the Civil Court. It has been categorically stated that this writ petition has been filed only because some persons are attempting to encroach the lands and the house sites allotted to the members of the petitioner society. Those persons who are alleged to have been attempting to encroach such lands are not made parties to this writ petition.

5. In the aforesaid facts and circumstances of the case, the proper course for the petitioner-society would be to approach the first respondent-Secretary to Government, Revenue Department by filing a suitable representation, who shall look into the matter and take appropriate decision in accordance with law. In the light of the order passed in the first writ petition, all the other writ petitions are disposed of with the direction as stated above. Consequently, the connected miscellaneous petitions are closed. However, there will be no order as to costs."

3. According to the impleaded respondents after the said order was passed by the Division Bench, they have submitted a representation on 16.07.2012 before the Secretary to Government, Revenue Department, in terms of First Bench order

and the said representation is yet to be disposed of. Learned counsel for the impleaded respondents submit that in the light of the direction issued by the First Bench of this Court directing the Revenue Secretary to consider the issue, the prayer made by the petitioners seeking direction to the District Collector and the Tahsildar, is not maintainable.

4. As the petitioners are claiming right based on their possession, the petitioners are granted liberty to make a representation before the first respondent within a period of two weeks from the date of receipt of a copy of this order and if any such representation is given, the first respondent while passing order as directed by the First Bench shall also consider the claim made by the petitioners. The first respondent is directed to comply with the order of the First Bench and to consider the representation to be submitted by the petitioners within a period of four months from the date of receipt of a copy of this order. Till orders are passed by the first respondent, the status quo as on today shall be maintained."

5. The aforesaid order squarely applies to the facts of the present case. Hence, the first respondent is directed to consider the representation dated 08.09.2012 made by the petitioners and pass orders on its own merits and in accordance with law as expeditiously as possible. Till such orders are passed by the first respondent, the status quo as on today shall be maintained.

6. With the above direction, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

सत्यमेव जयते

Sd/-

Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

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To

1 THE SECRETARY GOVERNMENT OF TAMIL NADU
REP. BY ITS SECRETARY REVENUE DEPARTMENT
FORT ST. GEORGE CHENNAI-9.

2 THE DISTRICT COLLECTOR
OFFICE OF THE COLLECTORATE THIRUVELLORE
THIRUVELLORE DISTRICT.

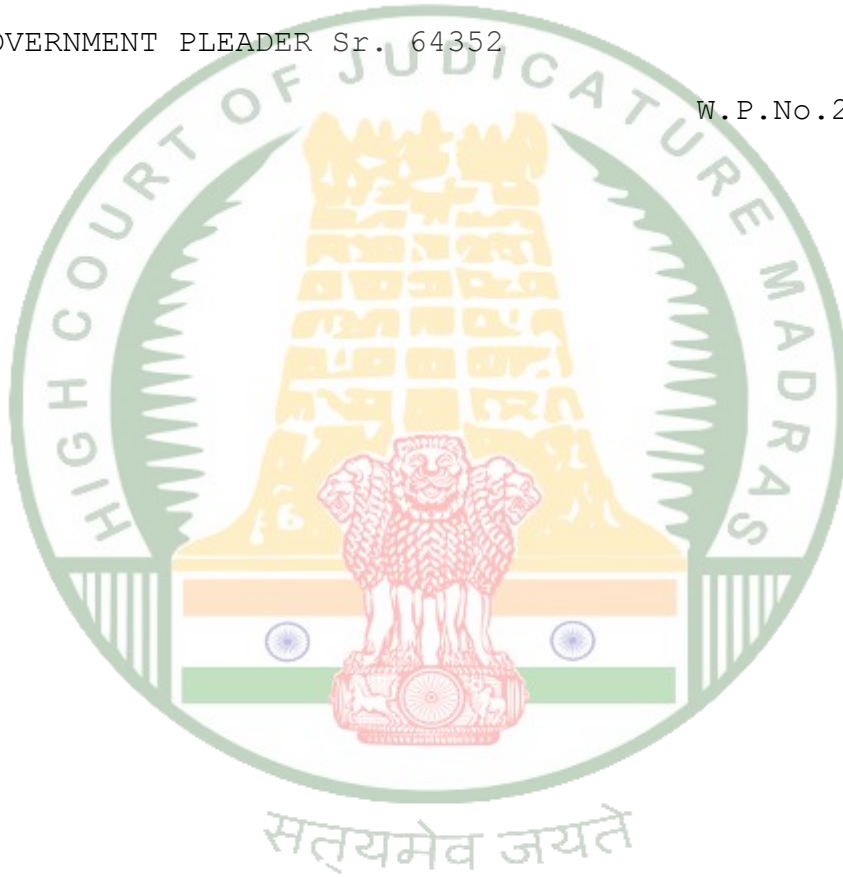
3 THE TAHSILDAR
POONAMALLEE OFFICE OF THE TAHSILDAR
POONAMALLEE THIRUVALLORE DISTRICT.

4 THE VILLAGE ADMINISTRATIVE
OFFICER GUDAPAKKAM VILLAGE POONAMALLEE
TALUK THIRUVALLUR DISTRICT.

1 CC TO GOVERNMENT PLEADER Sr. 64352

W.P.No.2722 of 2013

SV (CO)
kk 29/11



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