

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2017

CORAM :

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
AND

The Hon'ble MR.JUSTICE M.SUNDAR

W.P. Nos.9791 to 9802 of 2009

G.Radha	...	Petitioner in WP.9791 of 2009
C.Muthukrishnan	...	Petitioner in WP.9792 of 2009
R.S.Latha	...	Petitioner in WP.9793 of 2009
S.Sarasammu	...	Petitioner in WP.9794 of 2009
A.Haseena Begam	...	Petitioner in WP.9795 of 2009
M.Kennady	...	Petitioner in WP.9796 of 2009
K.Rukmani	...	Petitioner in WP.9797 of 2009
M.Natarajan	...	Petitioner in WP.9798 of 2009
M.Indira	...	Petitioner in WP.9799 of 2009
B.Jayasudha	...	Petitioner in WP.9800 of 2009
M.Gowri	...	Petitioner in WP.9801 of 2009
V.Chandran	...	Petitioner in WP.9802 of 2009

-Vs-

1. The State of Tamil Nadu
Rep. by its Secretary,
Revenue Department,
Fort St. George, Chennai 600 009.
 2. The District Collector,
Thiruvallur.
 3. The Chief Engineer,
Public Works Department,
Thiruvallur District.
 4. The Thasildhar,
Avadi.
- ... Respondents in all the W.Ps

Prayer in W.P.No.9791 of 2009 : Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus to direct the first respondent to conduct enquiry and to issue Patta in favour of the petitioner in respect of the land and property situated at No.49, Indira Nagar 3rd Street, Thirumullaivoyal, Chennai 600 062, Thiruvallur District comprised in Survey No.518/2, which is classified as "Agriculture Land" and later classified as "Residential Area", measuring 2520 sq. ft. with building.

Prayer in W.P.No.9792 of 2009 : Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus to direct the 1st respondent to conduct enquiry and to issue patta in favour of the petitioner in respect of the land and property situated at No. 6, Agasthiyar Street, Ramapuram, Ambattur, Chennai 600 053, Thiruvallur District comprised in survey No.518/2 which is classified as "Agriculture Land" and later classified as "Residential Area", measuring 1194 sq.ft., with building.

Prayer in W.P.No.9793 of 2009 : Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus to direct the 1st respondent to conduct enquiry and to issue patta in favour of the petitioner in respect of the land and property situated at No. 38, Ganapathy Nagar, 3rd street, Thirumullaivoyal, Chennai 600 062, Thiruvallur District comprised in survey No. 518/2 which is classified as "Agriculture Land" and later classified as "Residential Area", measuring 1200 sq.ft., with building.

Prayer in W.P.No.9794 of 2009 : Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus to direct the 1st respondent to conduct enquiry and to issue patta in favour of the petitioner in respect of the land and property situated at No. 43, Indira Nagar, 3rd Street, Thirumullaivoyal, Chennai 600 062, Thiruvallur District comprised in survey No. 518/2 which is classified as "Agriculture Land" and later classified as "Residential Area", measuring 2600 sq.ft. with building.

Prayer in W.P.No.9795 of 2009 : Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus to direct the 1st respondent to conduct enquiry and to issue patta in favour of the petitioner in respect of the land and property situated at No.28, Ganapathy Street, Thirumullaivoyal, Chennai 600 062, Thiruvallur District comprised in survey Nos. 518/1 & 518/2, which are classified as "Agriculture Land" and later classified as "Residential Area", measuring 2712 sq.ft., with building.

Prayer in W.P.No.9796 of 2009 : Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus to direct the 1st respondent to conduct enquiry and to issue patta in favour of the petitioner in respect of the land and property situated at No. 38, Ganapathy Street, Thirumullaivoyal, Chennai 600 062, Thiruvallur District comprised in survey No. 518/2, which is classified as "Agriculture Land" and later classified as "Residential Area", measuring 1352 sq.ft. with building.

Prayer in W.P.No.9797 of 2009 : Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus to direct the 1st respondent to conduct enquiry and to issue patta in favour of the petitioner in respect of the land and property situated at No. 8, New No.16, Indira Nagar, 3rd Street, Thirumullaivoyal, Chennai 600 062, Thiruvallur District comprised in survey No. 518/2, which is classified as "Agriculture Land" and later classified as "Residential Area", measuring 734 sq.ft., with building.

Prayer in W.P.No.9798 of 2009 : Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus to direct the 1st respondent to conduct enquiry and to issue patta in favour of the petitioner in respect of the land and property situated at Old No.7, New No.19, Indira Nagar, 3rd Street, Thirumullaivoyal, Chennai 600 062, Thiruvallur District comprised in Survey No. 518/2, which is classified as "Agriculture Land" and later classified as "Residential Area", measuring 1200 sq.ft., with building.

Prayer in W.P.No.9799 of 2009 : Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus to direct the 1st respondent to conduct enquiry and to issue patta in favour of the petitioner in respect of the land and property situated at No.43, Ganapathy Street, Thirumullaivoyal, Chennai 600 062, Thiruvallur District comprised in survey No. 518/2, which is classified as "Agriculture Land" and later classified as "Residential Area", measuring 1203 sq.ft., with building.

Prayer in W.P.No.9800 of 2009 : Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus to direct the 1st respondent to conduct enquiry and to issue patta in favour of the petitioner in respect of the land and property situated at Old No.22, New No. 47-A, Indira Nagar, 3rd Street, Thirumullaivoyal, Chennai 600 062, Thiruvallur District comprised in survey No. 518/2, which is classified as "Agriculture Land" and later classified as "Residential Area", measuring 2460 sq.ft., With building.

Prayer in W.P.No.9801 of 2009 : Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus to direct the 1st respondent to conduct enquiry and to issue patta in favour of the petitioner in respect of the land and property situated at No.13, Indira Nagar, 3rd Street, Thirumullaivoyal, Chennai 600 062, Thiruvallur District comprised in survey No. 518/2, which is classified as "Agriculture Land" and later classified as "Residential Area", measuring 2400 sq.ft., with building.

Prayer in W.P.No.9802 of 2009 : Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus to direct the 1st respondent to conduct enquiry and to issue patta in favour of the petitioner in respect of the land and property situated at No.15, Indira Nagar, 3rd Street, Thirumullaivoyal, Chennai 600 062, Thiruvallur District comprised in survey No. 518/1, which is classified as "Agriculture Land" and later classified as "Residential Area", measuring 1175 sq.ft., with building.

For Petitioner : M/s.V.Yamunadevi
in all W.Ps

For Respondents : Mr.T.N.Rajagopalan
in all W.Ps Special Government Pleader

COMMON ORDER

(Order of the Court was made by The Hon'ble Chief Justice)

The petitioners have prayed for restraint against demolition and dispossession from the portions of land in their occupation in S.Nos.518/1 and 518/2 of Thirumullaivoyal Village, Avadi Municipality, Ambattur Circle, Thiruvallur District, as also for issuance of patta in favour of the petitioners in respect of the respective stated plots.

2.It is not even clear as to what is the nature of the land. We say so, as if it is a water area, there can be no question of issuance of patta in view of the Full Bench judgment of this Court in T.K.Shanmugam v. The State of Tamil Nadu, rep. by its Secretary and others, reported in 2015-5-L.W. 397.

3.Our attention has been drawn to two orders, both passed on 14.12.2010 by the Division Bench of this Court. The first order is in W.P.No.7906 of 2009 and connected matters, which relate to the same area, albeit different petitioners. The findings given there are that since the land in question is water course poramboke (catchment area), the authority under the Public Works Department shall issue individual notices under the provisions and the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007, to each of the petitioners asking them to show cause as to why they should not be evicted from the water course poramboke land and thereafter, complete the exercise within a period of six (6) months from the date of receipt of copy of the order. It was, however, simultaneously observed that the order would not come in the way of the Government to consider the sale or assignment of the land or issuance of patta in favour of the petitioners on payment of

market price, but that the said benefit would not be applicable to any other persons.

4.The second order is in W.P.Nos.9157 to 9166 of 2009 dated 14.12.2010 passed again in respect of the same S.Nos.518/1 and 518/2 noticing that the possession of the land is without any valid patta and thus, there cannot be any direction issued to grant patta. The other aspects of the directions in the first order were made to operate.

5.The aforesaid, thus, shows that the area being water area, the subsequent development is the Full Bench judgment, referred supra and thus, there could not be any right of regularisation of the same. There can also be no issue now of sale of the area on market price as the water area cannot be utilised for any other purpose.

6.It is for the respondent authorities now to proceed in accordance with the provisions of the said Act.

Writ petitions, accordingly, stand closed. No costs. Consequently, connected miscellaneous petitions also stand closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

sra
To

1. The Secretary to Govt. of Tamil Nadu
Revenue Department,
Fort St. George, Chennai 600 009.

2. The District Collector,
Thiruvallur.

3. The Chief Engineer,
Public Works Department,
Thiruvallur District.

4. The Thasildhar,
Avadi.

+lcc to Mr.S.Mohanavadivelan, Advocate, S.R.No.1291

+lcc to the Government Pleader, S.R.No.1663

W.P.Nos.9791 to 9802 of 2009

AK(CO)
CA(19/01/2017)