

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2017

CORAM :

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

AND

The Hon'ble MR.JUSTICE M.SUNDAR

W.P.Nos.32501 of 2015 & 26539 of 2009

W.P.No.32501 of 2015:

Ashok Leyland Employees Co-operative House
Construction Society Limited,
KP (SPL) No.70,
rep. by its President R.Jayakumar,
Having Office at No.2, Sasthrinagar 3rd Street,
Ennore, Chennai-600 057. .. Petitioner

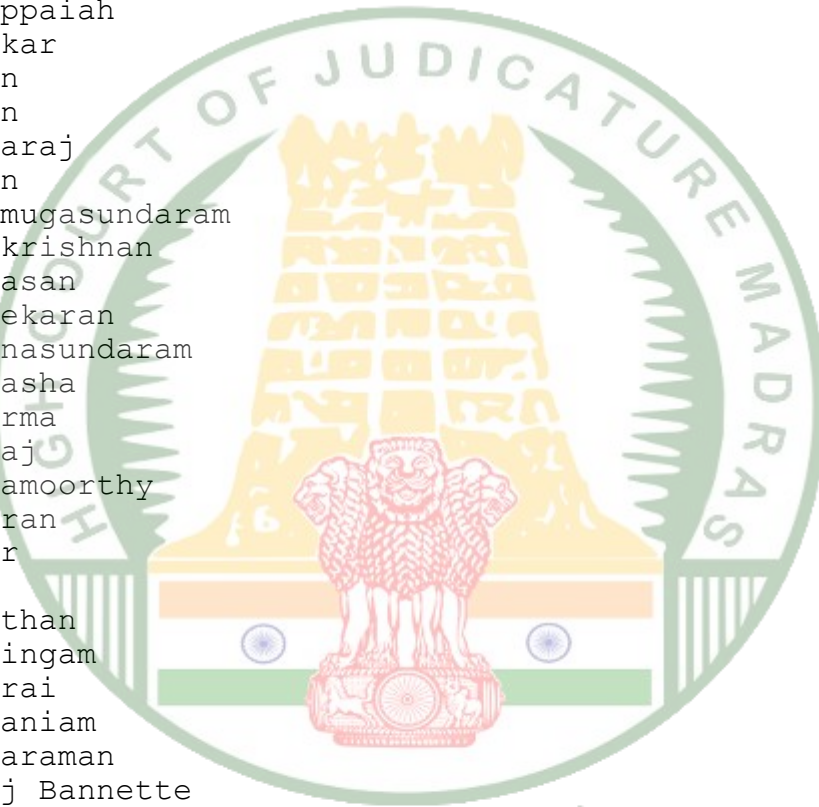
-vs-

- 1.The Secretary,
Department of Revenue,
Secretariat, Fort St. George,
Chennai-600 009.
- 2.The District Collector,
The Office of the Collectorate,
Kancheepuram District,
Kancheepuram-631 501.
- 3.The Tahsildar,
Taluk Office,
Sriperumbudur (PO), सत्यमेव जयते
Kancheepuram District.
- 4.The Superintendent of Police,
Office of the Superintendent of Police,
Kancheepuram. .. Respondents

W.P.No.26539 of 2009:

- 1.Sukumar
- 2.K.Rajendra Karuppan
- 3.G.Deenadayalan
- 4.A.Palanivelu
- 5.G.Vinayagamoorthy

6.K.Rajasekaran
7.G.Marimuthu
8.K.Panneerselvam
9.V.Dasarathan
10.K.Ekambaram
11.M.Gnanasambantham
12.K.Viswanathan
13.S.Sivaramakrishnan
14.P.Bagavathi Sundaram
15.P.Perumal
16.Ezekiel
17.M.K.Rathinam
18.K.R.Karuppaiah
19.K.R.Kamakar
20.A.Kumaran
21.P.K.Mohan
22.M.A.Selvaraj
23.S.S.Vasan
24.C.D.Shanmugasundaram
25.V.D.Balakrishnan
26.V.Srinivasan
27.V.Gnanasekaran
28.P.S.Mohanasundaram
29.Dilvar Basha
30.R.Manivarma
31.A.Durairaj
32.G.Krishnamoorthy
33.P.Sukumaran
34.R.Sudakar
35.N.Mohan
36.T.Kalimuthan
37.C.Muthulingam
38.P.Ayyadurai
39.N.Subramaniam
40.K.Venkataraman
41.D.Inbaraj Bannette
42.R.Rajesh
43.P.Davy Wilson
44.J.Stephensouriraj
45.D.Panneerselvam
46.Saju Thomas
47.V.Vasumathi



सत्यमेव जयते

WEB COPY .. Petitioners
-vs-

1.The Government of Tamilnadu,
rep. by its Secretary,
Revenue Department,
Secretariat, Fort St. George,
Chennai-9.

2.District Collector,
Kanchipuram District,
Collectorate Office,
Kanchipuram.

3.The Tahsildar,
Sriperumbudur (PO),
Sriperumbudur Taluk,
Kanchipuram District 602 105.

4.The Executive Officer,
Kundrathur Town Panchayat,
Kanchipuram District.

5.The Block Development Officer,
Kunthrathur Union,
Padappai PO,
Sriperumbudur Taluk,
Kancheepuram District, Pin-601 301.

6.Ashok Leyland Employees Co-operative
House Construction Society Limited,
KP (SPL) 000.70
rep. by its President,
No.2, Shastri Nagar III street,
Ennoor, Chennai-600 057.

... Respondents

(Description of respondent Nos.1 and 3 amended
as per the order in WMP.Nos.17566 & 17567 of 2016
dt. 28.7.2016)

(Respondent Nos.5 & 6 impleaded as per order
in WMP.Nos.17568 & 17569 of 2016 dt. 02.1.2017)

W.P.No.32501 of 2015 filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus directing the respondents to implement the order in G.O.Ms.No.990 Revenue (D1) Department, dated 12.6.1990 by removing the encroachments from the lands assigned to the petitioner comprised in S.Nos.361/1B, Adhanoor village, Sriperumbudur Taluk, Kanchipuram District thereby allotting the same to the petitioner society and issue patta to the allotted members of the petitioner society.

W.P.No.26539 of 2009 filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus directing the third respondent to remove the encroachment on the petitioners land situated at Aathonoor village, comprised in Survey Nos.361/1A, 361/1B, 361/3, 361/4, Cherapanajery Sriperumbudur Taluk, Kanchipuram District.

W.P.No.32501 of 2015

For Petitioner : Mr.S.S.Swaminathan
For Respondents : Mr.STS.Moorthy
Addl. Advocate General
assisted by
Mr.P.S.Sivashanmugasundaram
Spl. Government Pleader

W.P.No.26539 of 2009

For Petitioners : Mr.R.Thiagarajan
For Respondents : Mr.STS.Moorthy
Addl. Advocate General
assisted by
Mr.P.S.Sivashanmugasundaram
Spl. Government Pleader
for R1 to R5
Mr.S.S.Swaminathan for R6

COMMON ORDER

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

The land designated for the petitioner society (W.P.No.32501 of 2015) for housing plots for 1200 employees of M/s.Ashok Leyland was acquired by the State Government for North Madras Thermal Power Station Project and in lieu thereof, alternative lands were made available in Adhanoor village, Sriperumbudur Taluk, Kancheepuram District in pursuance to G.O.Ms.No.990, Revenue (D1) Department, dated 12.06.1990. It is the case of the petitioner society (W.P.No.32501 of 2015) that out of the lands so allotted, in one of three blocks of lands, in S.No.361/1B, there was certain encroachments, which were not removed.

2. It is the common case that the layout plan was approved, plots were handed over and distributed to the members (973 out of 1043 members were also issued pattas) and the remaining plots are stated to have not been handed over on account of alleged encroachments in S.No.361/1B. In this behalf, the District Revenue Officer, by the proceedings dated 25.10.1990 directed the Revenue Divisional Officer to hand over the lands to the petitioner society after removing the encroachments. The matter is stated to be agitated repeatedly and 47 members have even filed W.P.No.26539 of 2009 for removal of the encroachments. It is stated that the said writ petition is still pending and listed along with the main writ petition (W.P.No.32501 of 2015) filed by the society.

3. The prayer made is for removal of the encroachments by the authorities, so that the petitioner society is able to distribute the remaining land to the unallotted members.

4. The learned Additional Advocate General raised the sole plea that the land did not contain encroachments at the stage when possession was handed over and these encroachments are subsequent events and that being a private dispute, the Government was washing its hands off the issue.

5. We are unable to accept the said plea, as it runs contrary to the records. In fact, number of communications in this behalf were pointed out to us. The communications dated 28.1.2014, 25.2.2014, 29.5.2015 and 01.6.2015 would show an assurance held out to the society by the authorities that the encroachments would be removed and even police assistance was sought. One wonders why the Government slept over the matter for so many years. Be that as it may, it is the State Government's responsibility to remove the encroachments and if that, in turn, requires making any alternate allotment, so be it. We are only concerned with the rights of the petitioner society to get the lands in question as allotted by the order of the State Government.

6. We, thus, direct the respondent authorities to proceed in accordance with law and take necessary steps to ensure that the remaining land allotted to the petitioner society is handed over free of encroachments within a maximum period of three months of the receipt of the copy of this order.

7. The writ petitions, accordingly, stand disposed of. No costs.

Sd/-

Asst.Registrar (CCC)

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Sub Asst. Registrar

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To

1.The Secretary,
Revenue Department,
Secretariat, Fort St. George,
Chennai-9.

WEB COPY

2.The District Collector,
Kanchipuram District,
Collectorate Office,
Kanchipuram.

3.The Tahsildar,
Sriperumbudur (PO),
Sriperumbudur Taluk,
Kanchipuram District 602 105.

4.The Executive Officer,
Kundrathur Town Panchayat,
Kanchipuram District.

5.The Block Development Officer,
Kunthrathur Union,
Padappai PO
Sriperumbudur Taluk,
Kancheepuram District

6. The Superintendent of Police
O/o. Superintendent of Police
Kancheepuram

1 cc to Mr.S.S. Swaminathan, Advocate, Sr. 152

1 cc to Mr.R. Thiagrajan, Advocate, Sr. 182

1 cc to Government Pleader, Sr. 116

W.P.Nos.32501 of 2015 &
26539 of 2009

SCD (CO)
kk 11/1

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