

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 18-12-2018

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.28464 of 2005

And

W.P.M.P.Nos.31067 to 31069 of 2005

- 1.Mr.Duraisamy
- 2.Mrs.Lakshmi @ Govindammal
- 3.Mrs Meera
- 4.Mrs.Indira
- 5.Mr.Dheenadayalan
- 6.Mr.Srinivasan
- 7.Unnamalai
- 8.Mrs.Gunasundari
- 9.Ms.Kavitha (Minor)
- 10.Satish (Minor)
- 11.Ms.Priya (Minor)
- 12.Thiyagarajan
- 13.Ekambaram
- (P-9 to P-11 Minors represented by their  
mother and natural guardian Mrs.Unnamalai)

... Petitioners

..Vs..

- 1.The Government of Tamil Nadu,  
Rep.by Secretary  
Housing and Urban Development Department,  
Fort St.George,  
Chennai - 600 009.
- 2.The Sub Registrar,  
Thiruporur,  
Chengalput Taluk,  
Kancheepuram District.
- 3.The Chennai Metropolitan Development Corporation,  
rep.by its Member Secretary  
No.8, Gandhi Irwin Road,  
Egmore, Chennai - 600 008.
- 4.The Deputy Director,  
Town Planning, No.131, G S T Road,  
Chengalpattu, Kancheepuram District.

5.The Director,  
Town & Country Planning,  
No.807, Anna Salai,  
Chennai - 600 002.

6.The President,  
Thiruvudhanthai Panchayat Board,  
Chengalput Taluk,  
Kancheepuram District.

...Respondents

Writ Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to G.O.Ms.No.241 dated 19.09.2003 Housing and Urban Development (UD-III-1) Department passed by first respondent banning registration of the sale of the property of 33 cents comprised in New Punja S.No.137/72, situated at No.45, Thiruvudanthai Village, Chengalput Taluk, Kancheepuram District, and quash the same and direct the 2<sup>nd</sup> respondent herein to permit to sell the property of the petitioners by executing the sale deed in favour of any prospective purchaser without taking into consideration of the said G.O.Ms.No.241 dated 19.09.2003.

For Petitioners : Mr.P.Subba Reddy

For Respondents-1,4to6: Mr.G.B.Rajesh,  
Government Advocate.

For Respondent-2 : Mr.P.P.Purushothaman,  
Government Advocate.

For Respondent-3 : No Appearance

#### ORDER

With reference to the relief sought for in the present writ petition is to quash the G.O.Ms.No.241, Housing and Urban Development Department, dated 19.09.2003, this Court passed a common order in a batch of writ petitions in W.P.Nos.23318 of 2004 etc. batch of cases on 12.04.2006.

2. The learned counsel for the writ petitioner states that the present writ petition is alone left at the time of listing of the batch of writ petitions. This Court passed the following orders in paragraphs-7 and 8 as follows:-

"7. Applying the aforesaid ratio of the decision to the case on hand, I find that the present Government Order in G.O.Ms.No.241, dated 19.9.2003 has also been issued by the first respondent State Government in exercise of its powers under

Article 162 of the Constitution of India. There is no reference to any of the provisions of the Registration Act for the purpose of issuing the impugned Government Order. It is common ground that the issue relating to the Registration of any conveyance or other documents are governed by the provisions of the Registration Act. Therefore, the various restrictions and stipulations contained in G.O.Ms.No.241, dated 19.9.2003 if allowed to operate, would virtually set at naught the statutory provisions contained in the Act as has been held by the above referred to decision. Such an exercise of power by the State Government under Article 162 of the Constitution of India cannot be allowed to operate, which directly conflicts with the statutory provisions contained under the Registration Act.

8. Having regard to the said legal position, the impugned Government Order cannot stand and the same is liable to be struck down. The writ petitions stand allowed, the impugned Government Order is hereby quashed. Consequently, the connected W.P.M.Ps are closed."

Thus, the benefit of the order passed by this Court in the batch of writ petitions, cited supra, is to be granted in favour of the writ petitioner also.

3. Accordingly, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-  
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

- 1.The Secretary,  
Government of Tamil Nadu,  
Housing and Urban Development Department,  
Fort St.George,  
Chennai - 600 009.

2.The Sub Registrar,  
Thiruporur,  
Chengalput Taluk,  
Kancheepuram District.

3.The Member Secretary  
Chennai Metropolitan Development Corporation,  
No.8, Gandhi Irwin Road,  
Egmore, Chennai - 600 008.

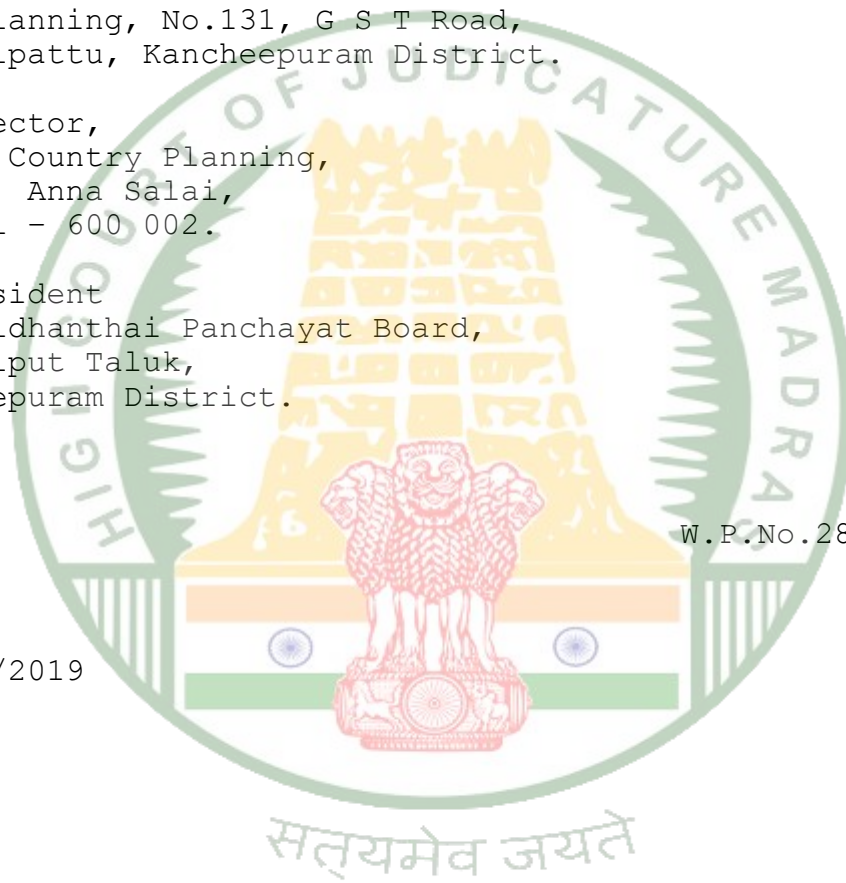
4.The Deputy Director,  
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5.The Director,  
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