

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :03.10.2018

CORAM

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

W.P.Nos.31042 of 2013 & 13887 of 2014 & W.P.(MD).No.8917 of 2010
and

W.M.P.No.37937 of 2016 & M.P.(MD).No.1 of 2010

W.P.No.31042 of 2013

The Pattukottai Polytechnic Society(S.No.31/1982)

Rep.by its Secretary,

Registered office:

Block No.5, 3-B,

"Bajaj Apartments"

5th Street, Nandanam Extension,

Chennai - 600 035.

..Petitioner

Vs.

1.The Principal Secretary,
Government of Tamilnadu,
Department of Higher Education,
Fort St.George, Chennai - 600 009.

2.The Principal Secretary,
Government of Tamilnadu,
Department of Rural Development
And Panchayat Raj,
Fort St.George, Chennai - 600 009.

3.The Principal Secretary,
Government of Tamilnadu,
Municipal Administration and Water
Supply Department,
Fort St.George, Chennai - 600 009.

4.The Principal Secretary and Commissioner
Of Land Administration,
"Ezhilagam"
Chepauk,
Chennai - 600 005.

5.The District Collector,
Thanjavur.

6.The Commissioner,

Pattukkottai Municipality,
Pattukkottai - 614 601.

.. Respondents

Prayer:Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 6th Respondent to execute the deed of sale in favour of the petitioner Society in respect of the land comprised in Survey No.112/2(1.66 Acre), 113/2B (1.10 Acre), 114/6B(1.68 Acre), 144/2B(0.58 Acre), 145(3.05 Acre), 146(6.06 Acre), 147(4.55 Acre) in Santhangadu Village and land comprised in Survey No.177A/1B(part) (0.69 ½ Acre) and Survey No.176/1 (part) (0.62 ½ Acre) in Pattukkottai Village in all measuring 20 Acres, in pursuance of the direction of the 3rd respondent vide G.O.Ms.No.248 dated 17.12.2009 after collecting the sum of Rs.1,01,70,058/- within the time stipulated by this Hon'ble Court.

For Petitioner : Mr.Om.Prakash, Senior Counsel
For M/s.Pass Associates.

For Respondents : Mr.P.H.Aravind Pandian,
Additional Advocate General
Assisted by M/s.A.Srijayanthi,
Special Government Pleader for R1 to R5
M/s.Judy Selva for R6

W.P.13887 of 2014

The Pattukkottai Polytechnic Society(S.No.31/1982)
Rep.by its Secretary,
Registered Office:
Block No.5, 3-B, "Bajaj Apartments",
5th Street, Nandanam Extension,
Chennai - 600 035.

..Petitioner

Vs.

1.The Principal Secretary,
Government of Tamil Nadu,
Municipal Administration and Water Supply Department,
Fort.St.George, Chennai - 600 009.

2.The District Collector,
Thanjavur

3.The Commissioner,
Pattukkottai Municipality,
Pattukkottai 614 601.

..Respondents

Prayer:Writ Petition filed under Article 226 of the Constitution

of India, to issue a Writ of Certiorari, to call for the records pertaining to the impugned resolution bearing No.465 dated 30.12.2013 on the file of the third respondent and quash the same.

For Petitioner : Mr.Om.Prakash, Senior Counsel
For M/s.Pass Associates.

For Respondents : Mr.P.H.Aravind Pandian,
Additional Advocate General
Assisted by M/s.A.Srijayanthi,
Special Government Pleader for R1 & R2

M/s.Judy Selva for R3

W.P.(MD).No.8917 of 2010

Pattukkottai Polytechnic College
Represented by its Correspondent and Secretary,
S.D.S.Selvam, S/o.S.D.Somasundaram,
Pattukkottai,
Thanjavur District. ...Petitioner

Vs.

1.The State of Tamil Nadu
Rep.by its District Collector,
Thanjavur District, Thanjavur.

2.The Commissioner,
Pattukkottai Municipality, Pattukkottai,
Thanjavur District.

3.P.Vasantha ..Respondents

Prayer:Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the impugned communication of the second respondent bearing Na.Ka.No.7702/80/F1, dated 14.06.2010 and quash the same.

For Petitioner : M/s.N.Krishnaveni

For Respondents : Mr.P.H.Aravind Pandian,
Additional Advocate General
Assisted by M/s.A.Srijayanthi,
Special Government Pleader for R1 & R2
Mr.P.Sesu Balan Raja for R3

C O M M O N O R D E R

The writ petition in W.P.(MD).No.8917 of 2010 has been filed, challenging the order dated 14.06.2010. The order impugned states that one, Smt.P.Vasantha filed a writ petition, stating that she has no right of pathway to her land on account of the entire land abutting the property is under the occupation of Pattukkottai Polytechnic College and the land belongs to the Government. Thus, the Municipal Commissioner, Pattukkottai, passed the said order dated 14.06.2010, stating that as per the orders of the Hon'ble High Court, the Commissioner, Municipality has to provide a pathway to the said Smt.P.Vasantha, so as to reach her property. The said pathway requires 8.02 cents and accordingly, directed the Correspondent, Pattukkottai Polytechnic College, to remove the canteen building in that locality and provide pathway to the said Smt.P.Vasantha.

2.Further, it is contended that the compensation amount will be collected from the said Smt.P.Vasantha and the same will be paid to the Pattukkottai Polytechnic College. It is further clarified that as per the judgment of this Court, without affecting the Polytechnic College and more specifically, 8.02 cents of land situated in South-East area, which belongs to the Municipality, is to be allotted to the said Smt.P.Vasantha as pathway. Challenging the said order, Pattukkottai Polytechnic College filed the writ petition on the ground that 20 acres of land was already allotted in favour of the writ petitioner and they are running a Polytechnic College. Thus, without considering the fact that 20 acres of land were already allotted to the Pattukkottai Polytechnic College, the respondent / Commissioner has passed an order, to handover the 8.02 cents of land for the purpose of providing pathway to one, Smt.P.Vasantha, which cannot be given at all. It is stated that the respondent ought to have take measures without insisting upon the writ petitioner to give up their land for the purpose of providing pathway to the third respondent. It is contended that the 2nd respondent cannot force or pressurize the petitioner to forgo 8.02 cents of land, which is in their possession for the purpose of providing a pathway to the third respondent.

3.At the outset, the petitioner objected for providing a pathway in favour of Smt.P.Vasantha in respect of the 8.02 cents of land, suggested by the Commissioner, Pattukkottai Municipality. The said matter filed before the Madurai Bench of the Madras High Court, was transferred along with the other writ petitions pending before this Court in W.P.No.31042 of 2013 and W.P.No.13887 of 2014.

4.The very same petitioner, Pattukkottai Polytechnic Society filed W.P.No.31042 of 2013 with a prayer to direct the 6th Respondent to execute the deed of sale in favour of the

petitioner Society in respect of the land comprised in Survey No.112/2(1.66 Acre), 113/2B (1.10 Acre), 114/6B(1.68 Acre), 144/2B(0.58 Acre), 145(3.05 Acre), 146(6.06 Acre), 147(4.55 Acre) in Santhangadu Village and land comprised in Survey No.177A/1B(part) (0.69 ½ Acre) and Survey No.176/1 (part) (0.62 ½ Acre) in Pattukottai Village in all measuring 20 Acres, in pursuance of the direction of the 3rd respondent vide G.O.Ms.No.248 dated 17.12.2009 after collecting the sum of Rs.1,01,70,058/- within the time stipulated.

5.In the above writ petition in W.P.No.31042 of 2013, it is contended that the petitioner Polytechnic is the Society, which is registered under the Tamilnadu Societies Registration Act, 1975, vide registration No.31 of 1982. The Society was formed with the object inter alia, to establish, run, manage or assist Polytechnics, Technical Schools and Colleges teaching technical subjects in order to provide technical education to the socially deprived, economically moderate and educationally backward people of the rural Pattukkottai region and to run workshops, factories and other activities in connection thereto; to grant scholarship and other financial assistance for the deserving students etc.,. The petitioner offers various Diploma courses in Engineering. The petitioner Polytechnic is one among the two Government aided institution in Thanjavur District. There are more than 1400 students studying. The building of the petitioner Polytechnic covers total floor space of 55000 Sq.ft. for class room, workshops etc.,. The petitioners have narrated the various schemes and the Courses offered to the students in that locality.

6.The petitioner Society had requested the 2nd respondent to spare 20 acres of land to them for opening the Polytechnic, so as to serve for the common cause of the students of Pattukkottai locality either as lease on long term basis or by way of sale. In pursuance thereto, the 2nd respondent had permitted and directed the 6th respondent namely the Pattukkottai Municipality to sell the land to such an extent of 20 Acres out of 37.93 acres of land in its control to the petitioner on collecting the market value to be fixed by the District Collector, Thanjavur, vide his G.O.No.1623 dated 28.10.1983. In view of the delay in arriving at the market value of the land, the petitioner had requested to handover possession of the said land to enable them to put up construction for commencing classes. Consequently, the 2nd respondent had permitted the Pattukottai Municipality to hand over possession of the 20 Acres of land, pending fixation of land value by the Collector of Thanjavur, by its G.O.Ms.No.1801 dated 05.12.1983. Accordingly, the Pattukottai Municipality had handed over the possession of following land to the petitioner on 07.12.1983 as follows:

Sl.No.	Name of Village	Survey Number	Extent
1.	Santhangadu Village	112/2	1.66 Acre
2.	-do-	113/2B	1.10 Acre
3.	-do-	114/6B	1.68 Acre
4.	-do-	144/2B	0.58 Acre
5.	-do-	145	3.05 Acre
6.	-do-	146	6.06 Acre
7.	-do-	147	4.55 Acre
8.	Pattukkottai Village	177A/1B(part)	0.69 $\frac{1}{2}$ Acre
9.	-do-	176/1 (part)	0.62 $\frac{1}{2}$ Acre
		Total:	20.00 Acre

7.The Pattukkottai Municipality had also sent a communication to the Tahsildar, Pattukkottai, to prepare sub division plan for the land to be handed over to the petitioner as well as the land to be retained by the Pattukkottai Municipality. The District Revenue Officer, at the direction of the 2nd respondent, vide G.O.Ms.No.1623 dated 28.10.1983 fixed the land value at Rs.135.80 per cent by his proceedings dated 13.04.1988. In pursuance thereof, the petitioner had sent a communication on 31.05.1988 to the District Revenue Officer, Thanjavur, expressing their readiness and willingness to pay the value of land as fixed at Rs.2,70,242/- in the Indian Bank, Pattukkottai and sought Treasury Challan.

8.That being so, to the petitioner's shock and dismay, the Pattukkottai Municipality had sent a communication to the District Collector, Thanjavur, stating that the Municipal Council passed a resolution No.68 on 23.05.1988, refusing to accept the value fixed by the District Revenue Officer and decided to prefer an appeal. Since the Pattukkottai Municipality had no authority to refuse the value fixed by the District Revenue Officer, the petitioner has sent a communication dated 20.06.1988 to the Pattukkottai Municipality, enclosing a cheque dated 20.06.1988 for the total value of Rs.2,71,600/- in favour of "The Commissioner, Pattukkottai Municipality" and requested to execute the deed of sale in favour of the petitioner. However, the Pattukkottai Municipality had sent a reply on 27.06.1988, refusing to execute the sale deed unless and until the current market value is fixed. On the basis of the appeal for refixation of the land, the Director of Municipal Administration, Chennai 600 005 sent a communication on 27.09.1990 to the Special Commissioner and Commissioner of Land Administration for issuing

appropriate orders, re-fixing the value of land. Subsequent thereto, the District Revenue Officer sent a report to the Special Commissioner and Commissioner of Land Administration, recommended to fix Rs.7,20,410/- as recommended by the Revenue Divisional Officer, Pattukkottai. In these circumstances, the Special Commissioner and Commissioner of Land Administration had passed an order on 06.03.2002, fixing the land value at Rs.7,20,410/- and to calculate 10% interest on the said amount for the period from 1984 to 1995 in view of possession and enjoyment of the land by the petitioner society. Consequent thereto, on 02.09.2003, the petitioner society made a representation to the Hon'ble Minister for Local Administration, seeking to accord permission to the Pattukkottai Municipality to receive Rs.7,20,410/- as fixed by the Special Commissioner and Commissioner of Land Administration. The petitioner society has always been very diligent in making the payment and to get the sale deed executed in their favour. However, registration has been prolonged for the reasons unknown to them.

9. In these circumstances, the District Revenue Officer, Thanjavur, in his letter dated 29.11.2006 had arrived a sum of Rs.86,68,081/- payable by the petitioner to the Pattukkottai Municipality in the following manner:

S.No.	Survey Number and extend of land	Value
1.	Survey No.112/2(1.66 Acre), 113/2B (1.10 Acre), 114/6B (1.68 Acre), 144/2B(0.58 Acre), 145(3.05 Acre), 146 (6.06 Acre), 147(4.55 Acre), 177A/1B(part) (0.69 ½ Acre) and Survey No.176/1 (part) (0.62 ½ Acre) in Santhangadu Village (@ Rs.300/- per cent on total land of 18.68 acres)	Rs.5,60,400
	Compounding Interest @ 12% on Rs.5,60,400/-	Rs.70,34,344
2.	Survey No.177A/1B (part) (0.69 ½ Acre) and Survey No.176/1 (part) (0.62 ½ Acre) in Pattukottai Village (@ Rs.600/- per cent on total land of 1.32 acres)	Rs. 79,200
	Compounding Interest @ 12% on Rs.79,200	Rs. 9,94,137
	Total:	Rs.86,68,081/-

10. Thereafter, on seeking recommendation by the Principal Secretary and Commissioner of Land Administration on the aforesaid report of the District Revenue Officer dated 29.11.2006, he had submitted a report to the Government fixing 10% notional increase for the period prior to 1993 in addition to the value arrived as aforesaid, in the following manner:

S.No	Details	Value of land and compound interest at 12%	10% notional increase
1.	Survey No.112/2 (1.66 Acre), 113/2B (1.10 Acre), 114/6B (1.68 Acre), 144/2B (0.58 Acre), 145 (3.05 Acre), 146 (6.06 Acre), 147 (4.55 Acre), 177A/1B (part) (0.69 ½ Acre), 176/1 (part) (0.62 ½ Acre) in Santhangadu Village (@ Rs.300/- per cent on total land of 18.68 Acres)	Rs. 5,60,400	
	Compounding Interest @ 12% on Rs.5,60,400/-	Rs. 70,34,344	
	Notional Increase (10% for the period from 1983 - 1993 and 12% from 1993 to 2009)		Rs. 89,10,723
2.	Survey No.177A/1B (part) (0.69 ½ Acre) and Survey No.176/1 (part) (0.62 ½ Acre) in Pattukottai Village (@Rs.600/- per cent on total land of 1.32 Acres)	Rs. 79,200	
	Compounding Interest @ 12% on Rs.79,200	Rs. 9,94,137	
	Notional increase (10% for the period from 1983 to 1993 and 12% from 1993 to 2009)		Rs. 12,59,335
	Total:		Rs.1,01,70,058

11. Based on the proceedings of the Principal Secretary and Commissioner of Land Administration dated 19.03.2009, 3rd respondent has passed G.O.Ms.248 dated 17.12.2009 directing the Pattukkottai Municipality to collect the sum of Rs.1,01,70,058/- and execute deed of conveyance in favour of the petitioner above named. The said order had become final without any grievance by either of the parties.

12. In these circumstances, the petitioner has been sending communications after communications namely 08.12.2010, 17.08.2012, 19.03.2013, 08.05.2013, 02.08.2013 and 02.09.2013 to the respondents expressing their readiness and willingness to pay the said sum of Rs.1,01,70,058/- and register the sale deed in favour of the petitioner. However, in spite of several requests and communications, the Pattukkottai Municipality herein i.e., 6th respondent failed to execute the sale deed in pursuance of the G.O.Ms.No.248 dated 17.12.2009 of the 3rd respondent. The 6th respondent has failed to discharge his legally bounden duty. Hence, the petitioner is constrained to move this Hon'ble Court, seeking to redress their grievance.

13. The Commissioner of Pattukkottai Municipality filed a counter affidavit in W.P.(MD).No.8917 of 2010, stating that the petitioner Society approached the Government for allotment of land for the purpose of construction of building to establish a polytechnic as per the norms prescribed by the AICTE i.e., 20 acres of land should be available in respect of rural area. Considering the request of the petitioner, the Government in G.O.(Ms).No.1623, Rural Development and Local Administration Department, dated 28.10.1983 had permitted the Pattukkottai Municipal Council to sell 20 Acres of land out of the total extent of 37.93 Acres to the Pattukkottai Polytechnic Society after collecting the market value to be fixed by the District Collector. Subsequently, the Government in the G.O.(Ms).No.1801, Rural Development and Local Administration Department, dated 05.12.1983 dated 05.12.1983 had permitted to the Pattukkottai Municipal Council to hand over the possession of 20 Acres of Land (Santhankadu Village 18.68 acre and Pattukkottai Village 1.32 acre) to the Pattukkottai Polytechnic Society, pending fixation of land value by the District Collector, Thanjavur and subject to the observance of the terms and condition of sale to be prescribed by him.

14. In G.O.(Ms).No.1801, Rural Development and Local Administration Department, dated 05.12.1983 orders have been issued to hand over the possession of said 20 acres of land to the Pattukkottai Polytechnic Society. Based on the above orders, the Commissioner, Pattukkottai Municipality sent a letter, dated 26.11.1983 to the Tahsildar, requesting for the Sub division of

the 20 Acres of land to be handed over to the petitioner from and out of the larger extent of 37.93 acres. The Municipal council vide its Resolution No.509, dated 15.12.1983, requested the Commissioner to take action for fixing the market value of 20.00 acres of land, which has already been handed over to the Pattukkottai Polytechnic Society on 07.12.2013 and the remaining lands of 17.93 acres are under the Pattukkottai Municipality Possession for Water Supply Schemes.

15.The District Revenue Officer, Thanjavur had fixed the land value as Rs.135.60 per cent and the total value was Rs.2,71,600/-. But, the Municipal Council, Pattukkottai vide its Resolution No.68, dated 23.5.1988 had refused to accept the rate fixed by the District Revenue Officer. The Municipal council did not accept the value of the land to the tune of Rs.2,71,600/- for an extent of 20.00 acres possessed by Pattukkottai Polytechnic Society, since the rate was not fixed as per the then prevailing market value and returned the cheque amount of Rs.2,71,600/- to the Pattukkottai Polytechnic Society. The District Revenue Officer, Thanjavur, requested the Commissioner of Land Administration, vide letter dated 11.08.1994 to fix the value of land as Rs.7,20,410/-. Accordingly, the Commissioner of Land Administration had fixed the value as Rs.7,20,410/- vide its order dated 06.03.2002.

16.The Government, issued order in G.O.(Ms).No.248, Municipal Administration and Water Supply Department, dated 17.12.2009, fixing the value of 20 Acres of land together with interest to the tune of Rs.1,01,70,058/- as detailed below and to direct the Commissioner of Pattukkottai Municipality to collect the amount and to execute the sale deed in favour of the Pattukkottai Polytechnic Society.

Sl.No	Particulars	Value Rs.
1)	Rs.300 per cent for 18.68 Acre in Santhankadu Village and 10% interest from 1983 to 1993 and 12% interest from 1994 to 2009.	89,10,723/-
2)	Rs.600/- per cent for 1.32 acre in Pattukkottai Village, 10% interest from 1983 to 1993 and 12% interest from 1994 to 2009.	12,59,335/-
	Total	1,01,70,058/-

17.It is stated in the counter affidavit that the Pattukkottai Polytechnic Society is utilizing the land of 20

acres, which belongs to Pattukkottai Municipality without payment of land cost from the year 1983 onwards.

18.The Revenue Department acquired the lands to an extent of 19.35 Acres in Pattukkotti Village and also the lands to an extent of 18.58 Acres in Santhankadu Village of Pattukkottai Taluk, Thanjavur District for a Bonafide Public Purpose for construction of summer water storage tank during the year 1964 vide Fort.St.George Gazette Part II Section 2, No(11) Madras dated 18.03.1964. The above said total extent of 37.93 Acres of land acquired under the provisions of the Land Acquisitions Act 1894 and handed over the land to the Pattukkottai Municipality for Water Supply Scheme. The Pattukkottai Municipality handed over the 20 acres of land to Pattukkottai Polytechnic Society as per the order issued vide G.O.(Ms).No.1801, Rural development and local Administration Department, dated 05.12.1983 and the balance available land of 17.93 acres was held by the Pattukkottai Municipality for water supply works.

19.Further, the counter narrates the evidence in relation to the claim of the said Smt.P.Vasantha, who filed a writ petition seeking pathway to reach her property. That order was issued by the Pattukkottai Municipality is also under challenge in W.P.(MD).No.8917 of 2010.

20.The 2nd Respondent / Commissioner, Pattukkottai Municipality filed an additional counter affidavit in W.P.(MD).No.8917 of 2010, the additional informations provided in the additional counter affidavit is that the land measuring an extent of 20 acres in the Pattukkottai and Sathangadu Villages were given possession to the Pattukkottai Polytechnic Society on collection of land value to the tune of Rs.1,01,70,058/- upto the year 2009. The petitioner has not yet remitted the land value for the said 20 acres of lands, which was in their possession from the year 1983 onwards. Since, the petitioner has failed to remit the said land value, no sale deed was effected till date. The above said lands still remain in the name of the Pattukkottai Municipality and the petitioner herein is only an occupier, who squatted in the Municipal property and as such he has no locus standi to question the order impugned in the writ petition.

21.The land to an extent of 8.02 cents in S.Nos.112/2 part and S.No.113/2B part is necessarily to be taken from the petitioner's Polytechnic to comply with the orders dated 25.06.2002 of this Hon'ble Court in S.A.No.1630/1989 and therefore, the impugned order was passed based on the order passed by the Hon'ble High Court in the above Second Appeal.

22.It is further contended that the 20 acres of land was handed over to "Pattukkottai Polytechnic Society" and the petitioner in the present writ petition is Pattukkottai

Polytechnic College, represented by its Correspondent and Secretary. It is stated by the 2nd respondent that the reasons for the difference in the name of the petitioner is not explained in detail for the obvious reasons and on that score, the writ petition is not maintainable and liable to be rejected of devoid of merits.

23.It is contended that as per the existing All India Council for Teachers Education (AICTE), norms an extent of 5 acres of land is sufficient to run the polytechnic. The land value for the impugned lands has not yet been remitted by the petitioner and no sale deed was executed so far and the property still remains in the name of the Pattukkottai Municipality and in the absence of the payment of land value, the petitioner has to be construed only as an outsider, who squatted on the Municipal land, who has any right or title over these impugned lands.

Arguments of the petitioner:

24.The learned Senior Counsel appearing on behalf of the writ petitioner contended that the petitioner was approved for commencing Polytechnic at Thanjavur and a land to an extent of 20 acres was handed over to the writ petitioners for running the Polytechnic. However, it is contended that the petitioner was ready and willing to pay the sale consideration. The sale consideration originally fixed at Rs.2,70,242/- was paid by way of a Demand Draft to the Pattukkottai Municipality. However, they have returned back by stating that the value is not proportionate with the market value of the property. However, the subsequent actions initiated by the writ petitioner to pay the sale consideration and execute the sale deed in favour of the writ petitioners were failed. Thus, the writ petitioners were constrained to move all these writ petitions at various stages. It is contended that as per the original requirement to run a Polytechnic, the petitioner has to possess 20 acres of land at minimum. Thus, the original allotment of 20 acres must be allowed in all respects to run the Polytechnic by the writ petitioners'. Subsequent modifications made by the All India Council for Teachers Education (AICTE) cannot be applied in respect of the case of the writ petitioner, since the petitioner had already been allotted with 20 acres of land as per the erstwhile norms of the All India Council for Teachers Education (AICTE) and the same cannot be now altered with reference to the amended norms issued by the All India Council for Teachers Education (AICTE).

25.In the event of reduction of 20 acres of land i.e., already handed over to the writ petitioner Polytechnic, the writ petitioner would not be able to comply with the All India Council for Teachers Education (AICTE) norm and further, the writ petitioners' are having other developmental programmes and the same can be implemented, only if the existing lands are

under the possession of the writ petitioners'.

26.The learned Senior Counsel is of an opinion that the principles of legitimate expectations and the promissory estoppel would be applicable with reference to the facts and circumstances of the present writ petitions. When 20 acres of land were already handed over to the writ petitioner Polytechnic and the writ petitioner is in possession and enjoyment of the same, now, the same cannot be reduced by the 2nd respondent in view of the fact that the petitioners are in lawful possession for many years and more specifically, from the year 1983 onwards. This apart, the petitioners are administering the Polytechnic for the welfare of the poor students of that locality. They are charging the meager fee to the poor students and therefore, the institution being run for charitable purposes, cannot be disbursed and the writ petitioner has got a legitimate expectation that the 20 acres of land under their possession and enjoyment for more than 35 years will be handed over to them by executing the sale deed.

27.The learned Senior Counsel further contended that there is no question of re-valuation of the land already handed over to the writ petitioner. The valuation of the land was fixed at Rs.1,01,70,058/- as per G.O.Ms.No.248 dated 17.12.2009 and the said fixation attained finality. The Municipality has not filed any further appeal in respect of the fixation of land value. However, now they are claiming return of the land and the question does not arise at all.

28.The learned counsel appearing on behalf of the Pattukkottai Municipality also submitted a set of documents. The letter dated 24.09.2018 sent by the Commissioner of Municipal Administration to the Secretary to Government Municipal Administration and Water Supply Department, states that as per the All India Council for Teachers Education (AICTE) norms, 4 acres of land is sufficient for running a Government Polytechnic and as per the Government rules also. Thus, in respect of the remaining land, Water Development schemes are to be implemented in respect of the Pattukkottai Municipality. In respect of the variations, the same was fixed in the year 2009 as Rs.1,01,70,058/-. It is found that the Commissioner, Pattukkottai Municipality in his letter dated 20.09.2018, addressed the Secretary to Government, Municipal Administration and Water Supply Department that in order to fulfill the requirement of the public at large. Water Tank schemes are to be implemented and the Drinking Water requirements of that area are to be fulfilled. Thus, the 12 acres of land to be utilized for construction of water tanks, which is imminent to fulfill the Drinking water requirement of the people at large, residing in the Pattukkottai Municipality. The water development schemes and its details were also provided by the Commissioner as per the

reports, which is extracted hereunder:

PATTUKKOTTAI MUNICIPALITY FUTURE PROPOSAL FOR WATER SUPPLY
IMPROVEMENT SCHEME

- ◆ Already available land usage in the existing
water supply scheme - 17.93 Acres
- ◆ Additional land required for water supply
improvement scheme from
Pattukkottai Polytechnic society college - 12.00 Acres
- ◆ Total Extent of land - 30.00 Acres
- ◆ Augumentation of water supply Proposed
in the 12 acres vacant land - 6.00 MLD / per day

ROUGH COST ESTIMATION

ABSTRACT

Sl .N o.	Quant ity	Name of work	Rate (Rs.i n Lakhs)	Per	Amount (Rs.in Lakhs)
1	2Nos	Construction of 10.00 Lakh Litres Capacity Over Head Tank (OHT) with borewell at Santhankadu Premises	150.00	Eac h	300.00
2.	2 Nos	Construction of 5.00 Lakh Litres Capacity Over Head Tank (OHT) with borewill at Sathankadu	110.00	Eac h	220.00
3.	10 Nos	Providing Deep Borewell of 120 m depth (200mm dia) and submersible Pumpset arrangements at Santhankadu Premises.	10.00	Eac h	100.00
4.	2 Nos	Construction of 5.00 Lakhs litre capacity GLSR at Santhankadu premises	40.00	Eac h	80.00
5.	1 No.	Construction of Pump room at Santhankadu premises (12m*10m)	20.00	Eac h	20.00
6.	20 Nos.	Supply, delivery and fixing of Submersible motor for this borewell duty of 20 HP 600 * 75 LPM	0.70	Eac h	14.00

7.	8 Nos.	Supply, delivery and fixing of Submersible pump set for this open well(GSLR) duty of 40 HP 2000*60 LPM	1.60	Eac h	13.00
8	1 No	Supply, delivery and fixing of MV Panel board(including Starter, capacitor, AC/DC, main etc., complete	5.00	Eac h	5.00
9.	2 Nos.	Supply, delivery and installation of 200 KVA Generator with shed provision etc., complete	25.00	Eac h	50.00
10 .	4 Nos.	Supply, delivery and fixing of Liquid chlorination plant for 4 OHT's	3.50	Eac h	14.00
11 .	2 Nos.	Construction of Staff quatres (Electrecian)	5.00	Eac h	10.00
12 .	LS	Supply, delivery and fixing DI Pipes for suitable size, CI valves, DI reducers etc., complete	LS	-	10.00
13 .	LS	Provision for E.B. power supply for HT service including Transformer etc., complete	LS	-	24.00
14 .	LS	Construction of Compound wall at Santhankadu premises (500 m Length)	LS	-	50.00
15 .	LS	Contingency LS Provisions	LS	-	90.00
		TOTAL			1000.00

29.The Water Supply improvement schemes were sent by way of a proposal based on the recommendations of the Engineers and the Commissioner, Pattukkottai Municipality. The All India Council for Technical Education(AICTE) Approval Process Handbook is also produced. As per the All India Council for Technical Education(AICTE) norms for conducting the programme of Engineering and Technology, the land area requirement is 4 acres in Rural area and 1.5 acres in the urban areas. Thus, as per the current All India Council for Technical Education(AICTE) Norms, it is sufficient, if the writ petitioner is possessing 4 acres of land. This apart, the sketch showing the usage of land handed over to Pattukkottai Polytechnic Society(20 Acres) in R.S.Nos.112/2, 113/2B, 114/6B, 148/1, 146, 147/2A in Santhankadu Village and R.S.Nos:176/1,2,177 part in Pattukkottai Village and Taluk, Thanjavur District also has been produced before this

Court.

30. On a perusal of the sketch, showing the usage of land handed over to the Pattukkottai Polytechnic, it is clearly explained that the adjacent portion of 12 acres of vacant land are remaining vacant, more specifically, eastern portion of the land is occupied by the Polytechnic for conducting the courses in the existing class room and workshops and buildings. The total occupied area including the existing building by the writ petitioner / Polytechnic is stated as 8 acres approximately. The remaining vacant land of 12 acres are situated at western side of the 20 acres of land allotted to the writ petitioner / Polytechnic. As per the sketch provided by the Municipality, the entire 12 acres of land are vacant land and not utilized by the Polytechnic for their usage.

31. Under these circumstances, the learned counsel for the respondent urged this Court by stating that fulfilling the water requirement of the people of that locality is of paramount importance and there is a consistent pressure on Pattukkottai Municipality to develop the Drinking Water improvement schemes for the welfare of the public at large. Already, a water scheme is situated adjacent to the said vacant land of 20 acres. Thus, the vacant land now not under the usage of the writ petitioners, are to be taken over by the Municipality for the purpose of implementing the Drinking Water welfare schemes of the people of that locality. Now, this Court has to consider, whether the writ petitioner is entitled to continue the possession and enjoyment in respect of the entire extent of 20 acres of land.

32. Undoubtedly, pursuant to the orders of the Government, the Pattukkottai Municipality handed over possession and enjoyment of 20 acres of land to the petitioner Polytechnic Society. Accordingly, the writ petitioner is in possession of land measuring 20 acres. Further, it is admitted by the parties that the initial land value fixed by the authorities at Rs.2,70,242/- was sent by the petitioner Polytechnic to the Commissioner, Municipality and the said Demand Draft was returned by stating that the land value paid to the Municipality is not in proportionate with the market value of the land in that locality. However, the Government issued a revised fixation of land cost in G.O.Ms.No.248 dated 17.12.2009, fixing the valuation of the land at Rs.1,01,70,058/-. However, except by submitting representations that the petitioner is ready and willing to pay the land cost to the Municipality, the same has not been so far paid by the writ petitioner to the Municipality.

33. There is no proof to say that the subsequent land cost was paid to the Municipality by the writ petitioner. However, it is contended that the writ petitioners were ready and willing to pay the land cost fixed by the Government and the Municipality has not accepted the same.

34.This Court has to take note of the fact that though the writ petitioner expressed their willingness to pay the land cost, they have not initiated any steps to enforce the performance on the part of the Municipality for execution of the sale deed. For the past about 35 years, the land cost for 20 acres is not paid to the Municipality and the sale deed has not been executed in favour of the writ petitioner. Thus, the writ petitioner is continuing only as a permissive occupant and not as the owner of the land.

35.The writ petitioner was permitted by the Municipality to run the Polytechnic. The Municipality has not executed any sale deed in favour of the writ petitioner Polytechnic. Mere expression of willingness is insufficient to hold that the writ petitioner is entitled to continue in the entire portion of the land measuring 20 acres. When the land was not sold by the Municipality and the writ petitioner has not taken any effective steps to implement the execution of sale deed, this Court has to draw a factual inference that the writ petitioner has not made any attempt for execution of the sale deed for the past many years, except by sending some representations to the Municipality to execute the sale deed. Such an attempt is insufficient since the writ petitioner is only a permissive occupant and the title stands in the name of Pattukkottai Municipality and the land is also to a vast extent of 20 acres of land and now, which is almost urbanized. The respondent Municipality produced documents by showing that as per the current All India Council for Technical Education(AICTE) norms to run a Polytechnic College, 4 acres of land is sufficient. It is further contended that the writ petitioners are in effective possession and enjoyment of the land measuring about 8 acres only. The balance 12 acres of land are remaining vacant, the writ petitioners are not using the above land measuring 12 acres, which falls on the western side of the land. Thus, the respondent Municipality has taken effective steps to implement Drinking Water improvements schemes for the welfare of the entire people of that locality.

36.This Court is of an opinion that now on account of frequent droughts in the State of Tamil Nadu, and in some parts of Tamil Nadu, it is necessary that the State is bound to take initiatives to fulfill the Drinking water requirements of the people of the State. Providing Drinking water to the citizen is of paramount importance and it is the constitutional duty of the State to ensure that Citizen gets clean Drinking water for life. Water is life and Water is a fundamental Right to a citizen under Article 21 of the Constitution of India. Providing a clean water to the citizen is the constitutional mandate. Thus, the State is bound to provide and implement all Drinking Water establishments schemes for the welfare of the citizen. In the present case, the Pattukkottai Municipality has sent proposals

based on the report that Drinking water development schemes are to be implemented in that locality for the purpose of improving the Drinking water sources to the people of that locality. Thus, the schemes is also of very much importance.

37.This Court is not under-estimating the value and the importance of education to be imparted to the students of that locality. Polytechnic is also an important one for the welfare of the students, residing in that locality. Improvement of the educational system is also of paramount importance and the duty of the State to provide education to the citizen is also a constitutional perspectives. Thus, the importance of the Polytechnic in that locality can never be undermined. Thus, this Court has to adopt a pragmatic and balancing approach in respect of the issues raised in the present writ petition.

38.Undoubtedly, the Pattukkottai Municipality handed over possession of 20 acres of land to the petitioner / Polytechnic. Ultimately, the land cost has not been paid to the Municipality for the past 35 years, and the Municipality has not executed any sale deed in favour of the writ petitioner / Polytechnic. Thus, for all purposes, it is to be construed that the petitioner is continuing only as a permissive occupant and can never be considered as an owner of the land measuring 20 acres. The next question arises, whether the principle of legitimate expectation raised by the writ petitioners can be considered. The writ petitioner, undoubtedly, offered to pay the initial land cost of Rs.2,70,242/- and the said Demand Draft was returned by the Municipality. However, the subsequent conduct of the writ petitioner shows that they developed an idea that they can continue in possession without paying the land cost and without registering a sale deed in their favour. The writ petitioners have developed an attitude that they have constructed buildings for running the Polytechnic and the Polytechnic became popular in that locality and therefore, the officials of the Municipality cannot disturb them at any circumstances. The petitioner / Polytechnic developed an idea that they cannot be questioned by any authority in view of the fact that the Municipality itself handed over possession to them in the year 1983. Such an attitude can never be encouraged by the Court in view of the fact that the person, who is running an institution, must keep in mind that all the legal hurdles are to be resolved and the land cost, which is a public revenue must be paid to the Municipality in the interest of the people at large. By infringing the rights of the citizens at large, the petitioner cannot run the educational institution. The petitioner is running the Polytechnic by collecting fees from the students. The petitioner Polytechnic is earning profit from and out of the educational institutions. The petitioner Polytechnic cannot be construed as a complete charitable institution. They are collecting fees from the students and earning profits also.

Under these circumstances, non-payment of land cost to the Municipality, is to be construed as a loss to the public revenue and therefore, such an attitude of the writ petitioner cannot be encouraged by the Courts.

39. Mere expression of the writ petitioner / Polytechnic that they are ready and willing to pay the land cost to the Municipality is not sufficient. The writ petitioner / Polytechnic has not so far filed any case for many years for execution of sale deed only in the year 2010. When 8.02 cents of land was proposed to be converted as a pathway in favour of one Smt.P.Vasantha, pursuant to the orders of the Hon'ble High Court, the writ petition in W.P.(MD).No.8917 of 2010 was filed. Thereafter, in 2013, the other writ petition was filed in W.P.No. 31042 of 2013 and in 2014, the 3rd writ petition was filed in W.P.No.13887 of 2014. Right from the year 1983 till the year 2013, the writ petitioner had not initiated any effective steps seeking execution of the sale deed in favour of the writ petitioner.

40. This being the factum of the case, this Court is of an opinion that the principles of legitimate expectation cannot be applied in the facts and circumstances of the present writ petition. The writ petitioner was under the expectation that they will not be disturbed by anybody since they are running the institutions from the year 1983 onwards. Thus, considering the conduct of the petitioner, the principles of legitimate expectation cannot be extended in favour of the writ petitioner / Polytechnic. While applying the principles of legitimate expectations, this Court has to consider the genuinity or otherwise of the writ petitioner, while performing their obligations and requirements. Thus, the arguments advanced in this regard deserves no merit consideration.

41. In any angle, this Court is of an opinion that a pragmatic approach is required in view of the fact that running of a Polytechnic is also important and providing a Drinking water welfare schemes to the people of that locality is far more important. Providing a Drinking water to the citizen is an integral part of the Article 21 of the Constitution of India. Thus, there cannot be any compromise and equally providing education is also important.

42. In this view of the matter, this Court has to adopt a balancing approach in respect of the grievances of the litigants before this Court and accordingly, take a decision in the interests of all concerned. Accordingly, the following orders are passed:

(1) The writ petitioners' are entitled to possess 8 acres of land, which is under their possession and enjoyment in respect of running of the Polytechnic College.

(2) The respondents are directed to fix the current land cost for the above 8 acres of land, wherein the Polytechnic College is situated and accordingly, inform the land cost to the writ petitioner within a period of four weeks from the date of receipt of a copy of this order.

(3) On receipt of the communication regarding the land cost to be sent by the respondents, the writ petitioner is directed to pay the land cost to the Commissioner, Pattukkottai Municipality within a period of four weeks from the date of communication of the land cost.

(4) On payment of the land cost by the writ petitioner, the Commissioner, Pattukkottai Municipality is directed to execute the sale deed in favour of the writ petitioner in respect of the 8 acres of land, wherein the Polytechnic is functioning.

(5) The respondents are directed to take possession of the remaining vacant land of 12 acres within a period of four weeks from the date of receipt of a copy of this order and utilize the said 12 acres of land for the implementation of Pattukkottai Municipality Water Supply Improvement Schemes.

(6) The respondents are directed to implement the Drinking Water Supply Improvement Schemes as per the proposals at the earliest possible for the welfare of the people at large.

(7) For the purpose of taking possession of the vacant land belongs to the Pattukkottai Municipality peacefully, the Superintendent of Police, Thanjavur District, is directed to provide adequate Police Protection to the authorities concerned.

43. With these directions, all the three writ petitions stand disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-IX)

//True copy//

Sub Assistant Registrar

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To

1. The District Collector,
Thanjavur District, Thanjavur.

2. The Commissioner,
Pattukkottai Municipality, Pattukkottai,
Thanjavur District.

3.The Principal Secretary,
Government of Tamilnadu,
Department of Higher Education,
Fort St.George, Chennai - 600 009.

4.The Principal Secretary,
Government of Tamilnadu,
Department of Rural Development
And Panchayat Raj,
Fort St.George, Chennai - 600 009.

5.The Principal Secretary,
Government of Tamilnadu,
Municipal Administration and Water
Supply Department,
Fort St.George, Chennai - 600 009.

6.The Principal Secretary and Commissioner
Of Land Administration,
"Ezhilagam"
Chepauk,
Chennai - 600 005.

7.The District Collector,
Thanjavur.

8.The Commissioner,
Pattukkottai Municipality,
Pattukkottai - 614 601.

9.The Superintendent of Police,
Thanjavur District.

+3cc to M/s.Pass Asso, Advocate SR.No.68310

+1cc to Mrs.A.Srijayanthi, Advocate SR.No.68315

WEB COPY

W.P.Nos.31042 of 2013 &
13887 of 2014 &
W.P. (MD).No.8917 of 2010

GMY (04/10/2018)