

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.06.2018

CORAM:

THE HONOURABLE MR. JUSTICE T.RAJA

W.P.No.11621 of 2018 and

WMP.No.13614 of 2018

G.Devadass

... Petitioner

Vs

- 1.The State of Tamil Nadu
rep. by its Secretary to Government,
Revenue Department,
Fort St. George,
Chennai-9.
- 2.The Commissioner,
Urban Land Ceiling and Urban Land Tax,
Chepauk, Chennai-5.
- 3.The Assistant Commissioner,
Headquarters, Urban Land Ceiling and
Urban Land Tax, Chepauk,
Chennai-5.
- 4.The Assistant Commissioner,
Urban Land Ceiling and Urban Land Tax,
Poonamallee, No.5, Perumal Koil Sannathi
Street, Poonamallee, Chennai-56.
- 5.The Director,
Directorate of Vigilance and Anti Corruption,
No.293, M.K.N.Road,
Alandur, Chennai-16.
- 6.The District Collector,
Tiruvallur District,
Tiruvallur.
7. The Tahsildar,
Maduravoyal Taluk,
Maduravoyal,
Chennai-95.

8.The Commissioner,
Greater Chennai Corporation,
Park Town, Chennai-3.

9.The Assistant Commissioner,
Greater Chennai Corporation,
Zone XI, Valasaravakkam,
Chennai-87.

10.The Commissioner of Police,
Greater Chennai, Vepery,
Chennai-7.

11.The Assistant Commissioner of Police,
Maduravoyal Range,
Maduravoyal, Chennai.

12.The Inspector of Police,
Nolambur Police Station,
Nolambur, Chennai-95.

.... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 4 to consider the petitioner's representation dated 26.04.2018 and consequently, direct the respondents 1 to 4 to recommend the petitioner's name for issuance of patta and other residents who are residing in the said lands, measuring an extent of 7.85 Acres comprised in Survey Nos.172/1 and 176/2 in No.62, Nolambur Village, Maduravoyal Taluk (then Ambattur Taluk), Tiruvallur District.

For Petitioner : Mr.S.Jayakumar

For Respondents: Mr.V.Jayaprakash Narayanan,
Special Government Pleader
for R1 to 7 and R10 to 12

O R D E R

The Writ Petitioner, having lost his first round of litigation in W.P.No.17252/2010 by order dated 04.02.2011 which was filed along with 44 persons, seeking a similar prayer, namely, to issue a Writ of Mandamus, directing the respondents to consider and pass suitable orders in the petitioner's representation dated 28.10.2009 claiming to recognize their possession of the properties in Survey No.172/1 and the property to an extent of acres 4.40 cents Survey No.176/2 in No.62, Nolambur Village within Ambattur Taluk, Thiruvallur District within a time bound period, has again come to this court

initiating the second round of litigation for issuance of a Writ of Mandamus, directing the respondents 1 to 4 to consider the petitioner's representation dated 26.04.2018 and consequently, direct the respondents 1 to 4 to recommend the petitioner's name for issuance of patta and other residents who are residing in the said lands, measuring an extent of 7.85 Acres comprised in Survey Nos.172/1 and 176/2 in No.62, Nolambur Village, Maduravoyal Taluk (then Ambattur Taluk), Tiruvallur District.

2. Heard the learned Counsel for the petitioner and the learned Special Government Pleader appearing for the respondents 1 to 7 and 10 to 12.

3. On the face of the records, this Court is of the view that the prayer in the Writ Petition is wholly misconceived. When the petitioner has filed a Single Writ Petition seeking a Writ of Mandamus, he cannot widen his prayer by directing the respondents 1 to 4 to reconsider his case and also the case of the other residents who are not even parties before this Court. Therefore, on this ground itself, the Writ Petition is liable to be dismissed.

4. Secondly, when the petitioner had visited this Court on an earlier occasion with W.P.No.17252/2010 to issue a Writ of Mandamus, directing the respondents to consider and pass suitable orders in the petitioner's representation dated 28.10.2009 claiming to recognize their possession of the properties in Survey No.172/1 and the property to an extent of acres 4.40 cents Survey No.176/2 in No.62, Nolambur Village within Ambattur Taluk, Thiruvallur District within a time bound period, that prayer was elaborately considered by a well written order dated 04.02.2011 keeping in mind that the petitioner and others in the said Writ Petition were only encroachers.

5. At this stage, the learned Counsel for the petitioner submitted that although the petitioner and others were encroachers, a recommendation was made by the Special Commissioner of Urban Land Ceiling and Urban Land Tax in Letter No.E1/11997/2004 dated 8.10.2004 to the Secretary to Government, Revenue Department, Secretariat, Chennai-9 for regularising the encroachment keeping in mind the long possession of the petitioner in the said property.

6. However, this Court, taking into account the Order passed by this Court in W.P.No.21141/2004 dated 19.08.2006 (P.Hanumantha Rao and Others vs. The Special Commissioner and Revenue Secretary to Government and two others) wherein the owners of the land have challenged the proceedings initiated under the provisions of the Tamil Nadu Urban Land Ceiling Act, has refused to entertain the said Writ Petition. Therefore,

similar prayer, once again made by the petitioner, in my considered opinion is hit by the principles of res judicata.

7. The learned Special Government Pleader appearing for the respondents 1 to 7, 10 to 12 also submitted that since no original owner of the property has succeeded before this Court quashing the proceedings initiated by the Tamil Nadu Urban Land Ceiling Act, they are entitled to take back repossession of the lands. Therefore, the case of the writ petitioner also cannot be considered.

8. I find some merits on the submission made by the learned Special Government Pleader appearing for the respondents 1 to 7, 10 to 12.

9. Further, in the order passed in W.P.No.17252/2010 dated 4.2.2011, this Court has held as follows:

"11. In view of the decision of this court, which has attained finality, it is the land owner who are the owners of the land which cannot be said to be surplus land in which the petitioners could have any claim for issuance of patta on the basis of possession. This Court cannot issue a writ of Mandamus to decide the representation of the petitioners, as they have no legal right either for possession or transfer of land. Consequently, this Writ Petition is dismissed. However, the owners of the land, shall only be entitled to take possession of land from the petitioners only in accordance with law. No costs."

In view of all the above, this Court is not inclined to issue any Writ of Mandamus as prayed for by the petitioner.

10. In the result, the Writ Petition fails and the same is accordingly dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Secretary to Government,
State of Tamil Nadu,
Revenue Department,
Fort St. George, Chennai-9.
- 2.The Commissioner,
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- 3.The Assistant Commissioner,
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Urban Land Tax, Chepauk, Chennai-5.
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- 10.The Commissioner of Police,
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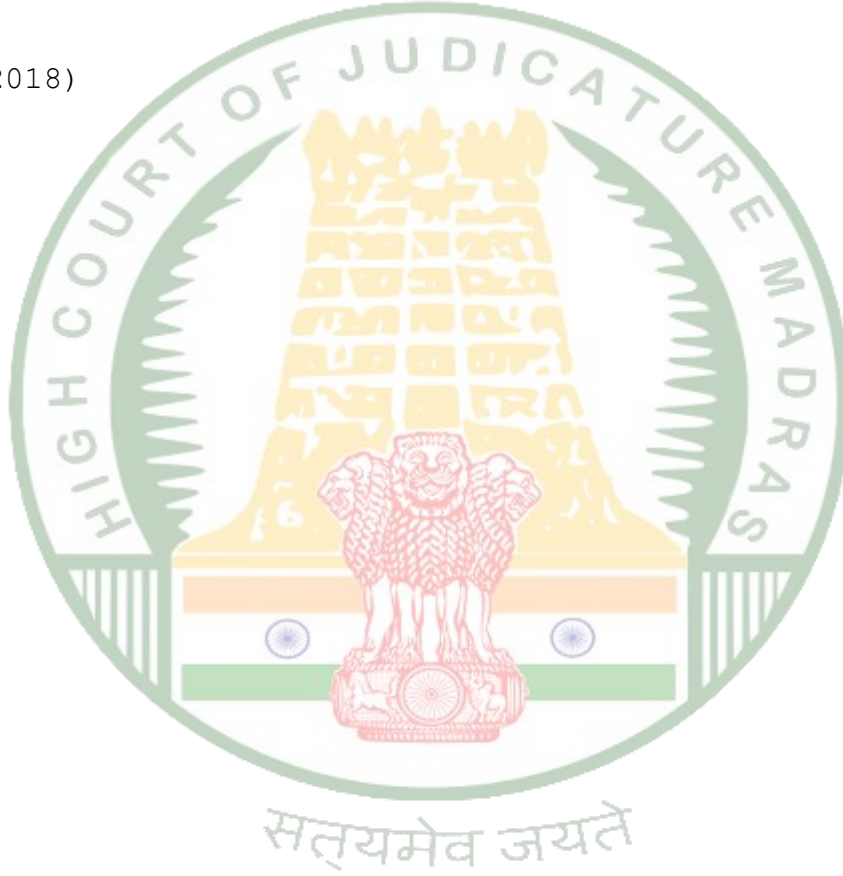
11.The Assistant Commissioner of Police,
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12.The Inspector of Police,
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Nolambur, Chennai-95.

+1cc to the Government Pleader, S.R.No. 34743

W.P.No.11621 of 2018

RV(CO)
TR(22/06/2018)



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