

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Thursday, the Twentieth day of December Two Thousand Eighteen

PRESENT

THE HON`BLE MR JUSTICE M.SATHYANARAYANAN

AND

THE HON`BLE MR JUSTICE P.RAJAMANICKAM

WMP NOS.29330 AND 29331 OF 2018

IN WP.NO.25223 OF 2018

KALAMIN AGNI SIRAHUGAL TRUST [PETITIONER IN BOTH THE PETITIONS]
REP. BY ITS SECRETARY, M.SENTHIL KUMAR,
NO.14, SENTHIL STREET, TEACHERS COLONY,
KODUNGAIYUR, CHENNAI - 118

Vs

1 THE GOVERNMENT OF INDIA [RESPONDENTS IN BOTH THE PETITIONS]
REP. BY ITS SECRETARY, MINISTRY OF
ENVIRONMENT, FOREST AND CLIMATE,
UNION OF INDIA, NEW DELHI.

2 THE GOVERNMENT OF TAMIL NADU,
REP. BY ITS SECRETARY, MUNICIPAL
ADMINISTRATION AND WATER SUPPLY (MC-1)
DEPARTMENT, FORT ST. GEORGE, CHENNAI - 9

3 THE COMMISSIONER
CORPORATION OF CHENNAI,
RIBBON BUILDING, CHENNAI.

4 THE DISTRICT COLLECTOR,
COLLECTORATE, KANCHEEPURAM DISTRICT.

5 THE TASHILDAR,
TALUK OFFICE SHOZHINGUNALLUR,
KANCHEEPURAM DISTRICT.

6 THE CONSERVATION AUTHORITY OF
PALLIKARANAI MASHLAND, REP. BY ITS PRINCIPAL
CHIEF CONSERVATOR OF FORESTS AND CHIEF WILD
LIFE WARDEN, PANAGAL MALIGAI, SAIDAPET,
CHENNAI - 15

7 THE DISTRICT FOREST OFFICER
VANDHAVASI ROAD,
KANCHEEPURAM TALUK AND DISTRICT.

8 THE INSPECTOR GENERAL OF
REGISTRATION, SANTHOME HIGH ROAD, CHENNAI.

9 THE DEPUTY REGISTRATION
GENERAL, CHENNAI ZONE, CHENNAI.

10 THE SUB REGISTRAR OFFICE
SOUTH ZONE, SAIDAPET, CHENNAI.

11 THE JOINT DIRECTOR
CENTRAL BUREAU OF INVESTIGATION (CBI),
SHASTRI NAGAR, ADYAR, CHENNAI,
TAMIL NADU - 600 020

12 M/S.I.G.3 INFO LTD.,
HAVING OFFICE AT CHENNAI ONE,
REP. BY ITS CHAIRMAN,
CHENNAI - 1, IT SES, PALLAVARAM,
DURAIBAKKAM, 100 FT. ROAD, CHENNAI - 97.

13 M/S.AXIS TRUSTEE SERVICE
LTD., REP. BY ITS MANAGING DIRECTOR,
AXIS HOUSE, BOMBAY DYEING MILLS COMPOUND,
PANDURANG BUDHKAR MARG,
WORLI, MUMBAI - 400 025.

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to grant Ad-interim injunction restraining the 10th respondent from making registration on the Deed of Mortgage which was presented by the 12th respondent on 16.04.2018 (in CMP.No.29330/18) pending disposal of the writ petition 25223/18 and;

(ii) To grant Ad-interim injunction restraining the 13th respondent from grand any loan to the 12th respondent on the Survey Numbers 657/2A1, 657/2A2A, 657/2A2C, 657/2A2D, 657/2A2E, 657/2B2B, 657/2B1A2, 657/2A2B, 697/1A, 697/1B, 697/1A, 700/2A1, 699/1B, 699/1C, 700/3B, 702/1A4, 702/3B3, 700/1, 702/1A2B, 700/2A2, 700/2A3, 700/2A2, 701/1, 701/2, 701/3A, 701/3B2, 701/3B1, 701/3B3, 701/3C, 701/4, 702/1A3, 702/1B, 702/2A2, 702/2A2, 702/2B, (702/3A), 702/3B2, 700/2B, 700/2C, 700/3A2 situated at Marshland Pallikaranai Village, Sozhinganallur Taluk, Kancheepuram District (in WMP.No.29331/18 in WP.No.25223/18 respectively.

Order : These petitions coming on for orders upon perusing the petitions and the respective affidavits filed in support thereof and upon hearing the arguments of M/S.P.VIJENDRAN Advocate for the petitioner in both the petitions and of MR.S.R.RAJAGOPAL Additional Advocate General assisted by MR.V.JAYAPRAKASH NARAYANAN

Government Pleader (In-charge) for the respondents 2, 4, 5, 7 to 9 respondents in both the petitions and M/S.AR.L.SUNDARESAN Senior Counsel for 12th respondent in both the petitions and M/S.T.R.RAJAGOPAL Senior Counsel for M/S.ADEESH ANTO Advocate for 13th respondent in both the petitions the court made the following order:-

The petitioner in these miscellaneous petitions filed W.P.No.25223 of 2018 against the respondents herein for the following reliefs:

"Writ of Certiorarified Mandamus to call for the records from the 9th respondent pertaining to the impugned order dated 06.08.2018 No.3093/E1/2018 of fixation of land value from Rs.0 to Rs.3015/- and quash the same and consequently directing the 11th respondent to conduct an enquiry about the assignment of Marshland to the 12th respondent in S.No.657/2A1, 657/2A2A, 657/2A2C, 657/2A2D, 657/2A2E, 657/2B2B, 657/2B1A2, 657/2A2B, 697/1A, 697/1B, 697/1A, 700/2A1, 699/1B, 699/1C, 700/3B, 702/1A4, 702/3B3, 700/1, 702/1A2B, 700/2A2, 700/2A3, 700/2A2, 701/1, 701/2, 701/3A, 701/3B2, 701/3B1, 701/3B3, 701/3C, 701/4, 702/1A3, 702/1B, 702/2A2, 702/2A2, 702/2B (702/3A), 702/3B2, 700/2B, 700/2C, 700/3A2 situated at Marshland Pallikaranai Village, Sozhinganallur Taluk, Kancheepuram District and issued patta to them and the land value was fixed Rs.3015/-from zero on 06.08.2018 and consequently, the 12th respondent attempted to get loan Rs.1350/- Crores (Rs.1,350,00,00,000/-) and suitable action against the corrupt officials those who are involved in assignment of land to the 12th respondent to grant in their favour, fixation of value on the marsh land."

2. The deponent of the affidavit, namely Thiru M.Senthil Kumar, in the affidavit filed in support of the writ petition, would aver among other things that he is the Secretary of "Kalamini Agni Sirahugal Trust" having Registration No.1118/2017 and would claim that he has filed this writ petition, styled as a Public Interest Litigation, on behalf of the general public and for the benefit of the public at large and that their Trust has commenced its operations in the year 2017 and their motto is to develop drinking water facilities at Pallikaranai area and other basic amenities. According to the petitioner, the main purpose for which the present Public Interest Litigation came to be filed is that the third respondent had alienated Marshlands in favour of the Forest Department under the Forest Act, 1888 and while doing so, failed to follow the procedures contemplated under the said Act.

3. The petitioner has also pointed out that people belonging to below poverty line are residing in the lands transferred to the Forest Department and they are poor by any standards and they are being threatened by the Forest and Revenue officials to vacate from the lands in their possession, treating them as encroachers and

also resorting to coercive methods in the form of disconnection of electricity supply and other basic amenities and some of them had also filed writ petitions and obtained interim orders and the present writ petition may be treated as part and parcel of those writ petitions also. It is further stated by the petitioner that the petitioner also highlighted about the importance of Pallikaranai Marshlands and one Sai Nagar Residents Welfare Association had also filed W.P.No.18888 of 1997 and this Court, vide order dated 13.05.2008 had formulated a Committee under the chairmanship of some of the State Government entities.

4. The petitioner would further state that he came across a news item on 22.05.2018 and became aware of the fact that the 12th respondent has attempted to get a loan of Rs.1350/- Crores by way of mortgage with the 13th respondent, the details of which have been given in paragraph No.7 of the affidavit and it is relevant to extract the same:

Sl.No.	Survey No.	Hectares
1	657/2A1	0.39.0
2	657/2A2A	0.54.0
3	657/2A2C 657/2A2D	0.21.0. 0.20.1
4	657/2A2E	0.39.0
5	657/2B2B	0.20.0
6	657/2B1A2	0.12.0
7	657/2A2B	0.28.5
8	697/1A	0.22.0
9	697/1B	0.20.5
10	697/1A 700/2A1	0.49.5 0.10.5
11	699/1B	0.23.5
12	699/1C 700/3B 702/1A4 702/3B3	0.22.0 0.21.0 0.14.5 0.11.0
13	700/1 702/1A2B	0.21.0 0.07.5
14	700/2A2	0.05.5
15	700/2A3	0.05.5
16	700/2A2	0.05.5
17	701/1	0.40.5
18	701/2	0.40.5
19	701/3A 701/3B2 701/3B1	0.10.0 0.05.0 0.10.0

Sl.No.	Survey No.	Hectares
20	701/3B3	0.16.0
21	701/3C 701/4	0.20.0 0.21.0
22	702/1A3	0.14.5
23	702/1B	0.13.5
24	702/2A2 702/2A2	0.17.5 0.24.0
25	702/2B (702/3A) 702/3B2	0.08.0 0.08.0
26	700/2B 700/2C	0.15.0 0.06.0
27	700/3A2	0.10.5
	TOTAL	7.64.5

The Mortgage Deed was presented before the 10th respondent for registration on 16.04.2018 and it is pending registration and he also made attempts to get information, but he was unsuccessful.

5. According to the writ petitioner, the lands referred to above are part of Marshlands and with the connivance of Revenue, Forest and other officials, the said lands are treated as private patta lands and are going to be mortgaged with the 13th respondent by the 12th respondent and it is nothing but a big scam and therefore, by filing this writ petition as a Public Interest Litigation, he wants to prevent such illegality.

6. The petitioner, pending disposal of the writ petition, had filed WMP.No.29330 of 2018, praying for an order of ad-interim injunction restraining the 10th respondent from making registration on the Deed of Mortgage which was presented by the 12th respondent on 16.04.2018 and also WMP.No.29331 of 2018, praying for an order of ad-interim injunction restraining the 13th respondents from granting any loan to the 12th respondent in respect of the survey numbers referred to above, classified as Marshlands, situated at Pallikaranai Village, Sozhinganallur Taluk, Kancheepuram District.

7. The writ petition was listed for hearing on 01.10.2018 and a Division Bench of this Court consisting of the Hon'ble Mr.Justice S.Manikumar and Hon'ble Mr.Justice Subramonium Prasad, after going through the materials on record, prima facie satisfied that the petitioner has made out a case for adjudication and accordingly, ordered notice to the respondents and granted an order of ad-interim injunction as prayed for in the said miscellaneous petitions.

8. The writ petition was subsequently listed before this Court on 27.11.2018 and by that time, the respondents 5 and 7 and the Joint T. Sub-Registrar, Saidapet, Chennai (South) as well as the

private respondents had filed their respective counter affidavits with supporting documents. This Court, on going through the materials placed, especially the stand of the private respondents in the counter affidavit as to the bonafide of the petitioner, who claims to be a Public Interest Litigant, found that the Trust Deed has not been disclosed and so also the residential address of the deponent of the affidavit and the learned counsel for the petitioner, undertook to file an additional affidavit with supporting documents as to the said query. The respondents 4 and 5 had also sought time to file counter affidavits and therefore, time was granted and the matter was directed to be called on 10.12.2018. Subsequently, the matter was listed on 11.12.2018 and on that day, the learned counsel for the petitioner has submitted additional affidavit dated 30.11.2018 along with supporting documents, which was taken on file.

9. The matter was again listed on 13.12.2018 and in the light of the fact that the Public Interest Litigation pertains to Marshlands, this Court has indicated that it will keep the writ petition pending and however taking into consideration the submission made by the learned Senior Counsel for the private respondents that on account of the subsistence of interim orders, registration of the Mortgage Deed could not be done, heard the arguments of the respective learned counsel for the parties in these miscellaneous petitions and reserved it "for orders" on 13.12.2018. Even in the additional affidavit filed by the petitioner dated 30.11.2018, the particulars as sought for by this Court, vide order dated 27.11.2018, have not been disclosed.

10. On behalf of the respondents 1, 2 and 4, the Tahsildar, Sholinganallur/5th respondent has filed a counter affidavit dated 30.11.2018, denying the averments made in the writ petition especially with regard to the allegation of malafide and corrupt practice and took the following stand:

10.1. As per the revenue records, the lands mentioned in the writ petition viz., Survey Nos.657/2A1, 657/2A2A, 657/2A2B, 657/2A2C, 657/2A2D, 657/2A2E, 657/2B1A2, 657/2B3B, 697/1A, 697/1B, 699/1A, 699/1B, 699/1C, 700/1, 700/2A1, 700/2A2, 700/2A3, 700/2B, 700/2C, 700/3A1, 700/3A2, 700/3B, 701/1, 701/2, 701/3A, 701/3B1, 701/3B2, 701/3B3, 701/3C, 701/4, 702/1A2B, 702/1A3, 702/1A4, 702/1B, 702/2B, 702/3B1, 702/3B2, 702/3B3 have been recorded as patta lands and pattas were issued as recorded in the Adangal of the year 1968 and UDR 'A' Register of the year 1985 and the other lands have been maintained as patta lands from the year 1911 onwards as per the Survey and Settlement Register.

10.2. The 10th respondent, vide letter No.P.51/APP/2018 dated 16.05.2018 has requested for clarification from the 5th respondent as to the authenticity of the patta issued by him to the 12th respondent and more particularly in respect of S.Nos.657/2A1 etc., referred above. In response to the same, the 5th respondent has sent a reply dated 17.05.2018, confirming that the lands of the 12th respondent are patta lands and the patta submitted by the 12th

respondent is an authentic one and the copy of UDR of the year 1986 as well as the Adangal of the year 1968 have also been furnished for reference.

10.3. Insofar as the allegation relating to Pallikaranai Marshlands are concerned, it is averred by the 5th respondent that as per the Re-Survey and Re-Settlement Register of the year 1911, a total extent of 2103 acres in Pallikaranai Village was classified as "Government Poromboke" and recorded as "Back Water" in the remarks column. As per the Adangal for the Fasli 1377 (Gregorian calendar year 1968), the lands in S.Nos.453/1, 657/2A1, 657/2A2A, 657/2A2B, 657/2A2C, 657/2A2D, 657/2A2E, 657/2A2F, 657/2B1, 657/2B2 were recorded as patta lands in the name of individuals.

10.4. In terms of UDR Scheme of the year 1985, the lands in S.No.657/2 were further sub-divided into 24 sub-divisions and the UDR 'A' Register itself has recorded the names of the Pattadars and their sub-divisions and apart from these, in respect of no other lands, pattas were issued in S.No.657 of Pallikaranai Village. The 5th respondent has also extracted/tabulated UDR 'A' Register based on 1968 Adangal as well as the enumeration in paragraph 6 of the counter affidavit. As per the said tabular column, a total extent of 448.55.0 Hectares equivalent to 1107.92 acres are classified as "Kazhuveli" "Tharisu", Corporation and patta lands. It is also to be pointed out at this juncture that lands admeasuring to 30.00.0 Hectares (74.1 acres) in S.No.429/2 and lands admeasuring to 16.49.5 Hectares (40.74 acres) in S.No.430 are classified as Poromboke lands and as per the remarks column, those lands are "Kazhuveli" lands.

10.5. The 5th respondent would further state that vide orders dated 18.11.2016 and 28.11.2016 made in CrI.O.P.No.4413 of 2013 and others, this Court directed the 5th respondent to find out as to whether any patta has been issued from the year 1990 in respect of Marshlands in Pallikaranai Village and accordingly, a detailed report was filed before the learned Judge concerned and also took a stand that patta was not transferred except those recorded in UDR 'A' Register. In paragraph No.9 of the counter affidavit, the patta lands standing in the name of the 12th respondent has also been given. The 5th respondent has specifically denied the allegation as to the collusion with Corporation, Revenue and Forest officials and prayed for dismissal of the writ petition.

11. On behalf of the 3rd respondent, the Assistant Commissioner, Zone-IV, Greater Chennai Corporation has filed a counter affidavit dated 24.10.2018 and took a stand that they have not assigned any lands in favour of the 12th respondent and that Marshlands is under the control of the Forest Department.

12. On behalf of the respondents 6 and 7 viz., the Conservation Authority of Pallikaranai Marsh Land and the District Forest Officer, Kancheepuram Taluk, the District Forest Officer, Chennai Forest Division and Forest Range Officer, Pallikaranai Forest Range, Chennai has sworn to the counter affidavit with

supporting documents and took a stand that the following Marshlands in Pallikaranai Village, Sozhinganallur Taluk, Kancheepuram District were transferred and handed over to the Forest Department as per various Government Orders and it is relevant to extract the same:

Sl.No	G.O.Nos. & Date	Survey Nos.	Area (In Hectares)	Received from	Under Section of TNF Act, 1882
1	G.O.Ms.No.52, E&F (FR-14) Department dated 09.04.2007 (Annexure-I)	657/3E 657/3C, 3D, 3F to 3K 657/3A3 453/2C 432/1 429/2	0.40.5 3.53.0 133.00.0 26.06.0 56.55.0 26.21.5	Revenue Department	Declared Under Section 16 of Tamil Nadu Forest Act, vide G.O. (Ms) No.62, E&F (FR-14) Department dated 10.05.2018
		433/1A to 1H 433/2A to 2F 444/2 434/3 430 431	34.28.5 0.39.0 6.87.0 16.49.5 13.20.0		
			317.00.0		
2	G.O.Ms.No.127, Municipal Administration & Water Supply (MC-I) Department dated 24.12.2012 (Annexure-II)	Pallikaranai 657/1B3 657/3A2	48.02.5 122.38.0 170.40.5	Chennai Corporation	Proposals under Section 4 of TNF Act 1882 was sent to the Government
3	G.O.Ms.No.147, Revenue (LD-IV) Department dated 12.5.2014 (Annexure-III)	Sholinganallur 602/7 & 8 Perumbakkam 534/4	55.19.0 20.74.0 75.93.0	Revenue Department	Declared under Section 4 of TNF Act 1882, vide G.O. (Ms) No.90, E&F (FR-14) Department dated 19.07.2017

Sl.No	G.O.Nos. & Date	Survey Nos.	Area (In Hectares)	Received from	Under Section of TNF Act, 1882
4	Kancheepuram District Gazette No.6 dated 01.07.2013 (Annexure-IV)	Pallikaranai 658/1A 657/1A 657/4A 657/4C	34.84.0 80.91.0 04.89.5 10.90.5 131.55.0	Revenue Department	Declared under Section 26 of the TNF Act, 1882
		Total area	697.88.5 (1716 Acres Approx)		

13. It is further averred that apart from the lands transferred by the 2nd respondent, the lands in S.No.657/1B1 continues to be vested with the Greater Chennai Corporation/3rd respondent herein and with regard to the query as to whether the lands in S.No.657/2A1 etc., were transferred to the Forest Department or not, the details sought for have been given along with VIII annexures to the counter affidavit. In Annexure-VI, the Chief Conservator of Forests, Chennai Circle, Chennai-6 has sent a clarification to the communication of the Joint-I Sub Registrar, Saidapet, Chennai dated 10.08.2018, giving the details of lands that were handed over by the Chennai Corporation and Revenue Department to the Forest Department. Annexure-VII pertains to list of writ petitions filed by various persons termed as encroachers and Annexure-VIII pertains to list of pending cases. The respondents 6 and 7 had also denied the allegations of corruption and collusion as false and untenable and pointed out that even according to the petitioner, he has relied upon documents furnished by one Mr.S.Kumar.

14. The 10th respondent, namely the Joint-1 Sub-Registrar, Saidapet, Chennai has sworn to the counter affidavit and he speaks about that documents submitted by the 12th respondent for registration of the Mortgage Deed and since doubt has developed as to whether the said lands are Marshlands or not, clarification was sought and the documents presented by the 12th respondent was kept pending and assigned pending Doc.No.86/2018. Insofar as the fixation of guideline value is concerned, it is the stand of the said official that it was classified as "Government lands" with effect from 01.04.2012 and these lands were classified as "residential" upto 31.03.2012 and the guideline values were available till 31.03.2012 and on account of increase in fraudulent registrations, decision was taken to classify it as Government lands and the guideline value was removed from the said lands with effect from 01.04.2012 and subsequently, vide proceedings of the Assistant Inspector General of Registration in Na.Ka.No.10460 dated 27.07.2018, the guideline value was restored at Rs.3,050/- per

Sq.Ft. with a rider that it is the responsibility of the registering authority to verify the nature of land based on revenue records and it was also ratified by the Deputy Inspector General of Registrations, Chennai, vide letter No.3093/E/2018 dated 06.08.2018. The 10th respondent once again denied the allegations levelled against him by the writ petitioner and took a stand that necessary steps have been taken to ensure that no illegal document/transaction is recorded and however, the petitioner, camouflaging a concealed agenda, has filed this writ petition with vague, baseless and reckless allegations.

15. The 12th respondent has filed a counter affidavit with typed set of document and would submit that the lands acquired by him were through various registered sale deeds and they developed into SEZ and also given the details of the sale deeds in paragraph No.6 of the counter affidavit. The 12th respondent has also pointed out that some of the registered title deeds are dated back in 1981 and some of the title deeds were registered in various periods between 1930s, 1940s, 1950s, 1960s, 1970s, 1980s and 1990s and the said lands are meant for developing SEZ and the 13th respondent was also approached for advancing loan. The 12th respondent, while meeting out the allegations of the petitioner, took a stand that the lands in S.Nos.657/2A1, etc., are patta lands and the certified copy of the Adangal of the year 1968 also disclosed that those lands are patta lands and not poromboke or Marshlands and as per G.O.Ms.No.52, E&F (FR-14) dated 09.04.2007, G.O.Ms.No.127, Municipal Administration and Water Supply (MC-I) Department dated 24.12.2012, G.O.Ms.No.147, Revenue (LD-IV) Department dated 12.05.2014 and Kancheepuram Gazetter No.6 dated 01.07.2013, the lands of the 12th respondent are not Forest lands and are private patta lands.

16. It is further averred by the 12th respondent in paragraph No.19 of the counter affidavit that they had availed loan of Rs.1350 Cores inter alia giving security of the lands including the lands in S.Nos.657/2A1 etc., and also presented the Mortgage Deed for registration and it is kept pending for registration on the file of the Join-I Sub-Registrar, Saidapet, Chennai, but the petitioner managed to get xerox copies of the same as well as xerox copies of the earlier title deeds and further pointed out that those documents were not obtained under Right to Information Act. It is further averred by the 12th respondent that they have nothing to do with the fixation of guideline value and whatever done by them is strictly in accordance with law and further pointed out that admittedly, the petitioner got the documents/title deeds from one Mr.Kumar and only espousing his cause and there is no real public interest involved and he has approached this Court with oblique motive and on account of subsistence of interim orders, they are put to untold hardship and financial loss and therefore, prays for vacating the interim orders and dismissal of this writ petition.

17. The 13th respondent has filed a counter affidavit and took a stand that documents have been thoroughly scrutinized and found

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to be in order and also took a stand that the petitioner is espousing the cause of one S.Kumar, who is the petitioner in W.P.No.693 of 2015 and admittedly, he is an encroacher and as such, he lacks bonafide, though he claims to be a public interest litigant and the said fact has also been deliberately suppressed by the petitioner and prays for dismissal of this writ petition with exemplary costs.

18. Mr.P.Vijendran, learned counsel appearing for the petitioner has invited the attention of this Court to the additional typed set of documents dated 12.12.2018 and would submit that in some of the documents, interest of minors are involved and before effecting sale, no Leave of this Court has been obtained and vide, unregistered Power of Attorney's, parent title deeds got registered and therefore, fraud has been played upon with the connivance of the Registration Department officials. It is the further submission of the learned counsel appearing for the petitioner that all of a sudden, the guideline value which was fixed as "0" with effect from 01.04.2012 was restored with the value of Rs.3,050/- and for extraneous consideration, the guideline value has been fixed at Rs.3,050/- per Sq.Ft. In sum and substance, it is the submission of the learned counsel appearing for the petitioner that wholesale fraud has been played upon to convert Marshlands into patta lands with the connivance of the Corporation, Revenue and Forest Department officials and that the Registration Department has also played its part by registering the parent title deeds of the 12th respondent and though some of the parties were minors, through unregistered Power of Attorney's, the said documents came to be registered and therefore, would contend that the interim order is to be made absolute and the writ petition is to be disposed of on merits.

19. Per contra, Mr.S.R.Rajagopal, learned Additional Advocate General assisted by Mr.V.Jayaprakash Narayanan, learned Government Pleader (In-charge) appearing for the respondents 2, 4, 5, 7 to 9 would submit that the petitioner lacks bonafide and has not done his homework before filing this writ petition styled as a Public Interest Litigation and he is really espousing the cause of persons, who have encroached upon Marshlands, possession of which are in the hands of the Forest Department. The learned Additional Advocate General has drawn the attention of this Court to the Annexures to the counter affidavit filed by the 5th respondent and would submit that during the presentation of the Mortgage Deed by the 12th respondent, the Joint-I Sub Registrar, Saidapet, Chennai expressed some doubt as to the lands in respect of S.Nos.657/2A1 etc., and addressed a communication dated 16.05.2018 to the Tahsildar, Sholinganallur, who in-turn sent a reply dated 11.06.2018 to the District Registrar (Administration), pointing out that the said lands are patta lands and when registration is done, patta would be transferred.

20. The learned Additional Advocate General has drawn the attention of this Court to UDR 'A' Register of Pallikaranai village, which came into existence even prior to 1968 and as per

'A' Register, lands are not classified as patta lands and such a mutation took place even prior to 1968 and at that time "Kazhuveli" refers to "Back Water" and as per UDR 'A' Register, the lands in S.Nos.429/2 and 430 are classified as "Kazhuveli- Back Water" in respect of lands sought to be mortgaged by the 12th respondent in favour of the 13th respondent and it requires registration as those lands are patta lands and as such, the petitioner cannot express any grievance.

21. The learned Additional Advocate General has produced the Tamil Nadu Act No.29 of 2012 in and by which amendment to the Registration Act, 1908 came into being and would submit that registration of Power of Attorney was made mandatory only under the said amendment and admittedly, the parent document of title of the 12th respondent came to be registered prior to 2012 and as such, registration of the Power of Attorney was not mandated at the relevant point of time and would further add that it is for the parties to the document to make a challenge and the petitioner has no locus standi to maintain the writ petition and that apart, the very same counsel on record is also espousing the cause of an encroacher in W.P.No.693 of 2015, namely Mr.S.Kumar, who is one of the petitioners therein, from whom the writ petitioner has gathered details for filing this Public Interest Litigation. It is the further submission of the learned Additional Advocate General that the Registration Department is given power to issue circular for restoration of guideline value and admittedly, on account of fraudulent registrations, a decision was taken to classify it was Government lands and the guideline value was removed from the said lands with effect from 01.04.2012 and prior to that the guideline value was fixed at Rs.3,050/- per Sq.Ft. and after ascertaining the authenticity of the documents of title by the Joint-I Sub-Registrar, Saidapet, Chennai, a decision was taken to register the Mortgage Deed presented by the 12th respondent and at that juncture, the writ petitioner has obtained interim orders in this writ petition.

22. Insofar as the plea made by the petitioner with regard to guideline value, the concerned rules relied on by the petitioner would come into play for the first time when the guideline value was fixed and in the case on hand, upto 31.03.2012, guideline value was there and after ascertaining the classification insofar as the lands of the 12th respondent are concerned, the guideline value was restored and it would be applied uniform for the reason that decision regarding registration will be taken on case to case basis and not general.

23. Mr.AR.L.Sundaresan, learned Senior Counsel appearing for the 12th respondent would contend that it remains a mystery how the petitioner obtained xerox copies of the pending registration documents on the file of the Joint-I Sub Registrar, Saidapet, Chennai and also invited the attention of this Court to the additional typed of documents dated 12.12.2018 filed by the petitioner and would submit that even xerox copies of the original sale deeds have been filed without obtaining certified copies and

it is for the petitioner to explain as to how he managed to get photocopies of the said documents. It is the further submission of the learned Senior Counsel appearing for the 12th respondent that the petitioner in effect wants to challenge the parent title deeds which came into being between two private parties and he absolutely lacks locus standi and bonafide to make such a challenge and it is for the concerned private party if he/she is really aggrieved to make such a challenge before the competent civil forum.

24. Insofar as the plea made by the learned counsel appearing for the petitioner as to the properties of the minors being sold without Court permission, it is pointed out by the learned Senior Counsel appearing for the 12th respondent that exclusive properties of the minors were not sold under parent title deeds and what was conveyed is only their interest in the joint family property. As per Article 60(a) of the Limitation Act, 1963, even assuming for the sake of arguments that interest of the minors is affected by such sale, they have to make a challenge within 3 years from the date of attaining majority and on the merits of the case would contend that the Tahsildar, Sholinganallur had caused verification of the title of the lands of the 12th respondent in S.Nos.657/2A1 etc., and it is the stand of the official respondents that the lands owned by the 12th respondent are patta lands even prior to the year 1968 and the 13th respondent, with whom the properties are given as security to avail mortgage loan, has also satisfied with the title and accordingly, the Deed of Mortgage came into being and the documents were presented for registration and on account of subsistence of interim orders, the mega project is not in a position to commence and it creates lot of problems, hardship, financial loss and difficulties and prays for vacating the interim orders.

25. Mr.T.R.Rajagopalan, learned Senior Counsel appearing for the 13th respondent would submit that the 13th respondent caused extensive verification as to the properties involved in the mortgage and satisfied with the title and therefore, thought fit to advance loan of Rs.1,350 Crores and it was also agreed that after development of the project, the rental amount would also be appropriated towards loan dues and further pointed out that in respect of the orders passed by this Court, the petitioner did not produce the Trust Deed and it is highly doubtful whether it is registered or not? It is also contended by the learned Senior Counsel appearing for the 13th respondent that the petitioner is really espousing the case of the encroachers more particularly one Mr.S.Kumar, who is one of the petitioners in W.P.No.693 of 2015, for which very same counsel on record has appeared and in the affidavit filed in support of the writ petition, the writ petition number and other particulars have been deliberately suppressed and for filing this writ petition, he got the particulars only from Mr.S.Kumar and therefore, prays for vacating the interim orders and dismissal of this writ petition with exemplary costs.

26. This Court has considered the rival submissions and also perused the entire materials placed before it.

27. This Court, vide order dated 27.11.2018, has taken note of the submission made by the learned counsel appearing for the private respondents that copy of the Trust Deed has not been produced and accordingly, directed the petitioner to file additional affidavit with supporting documents. The petitioner claims to be the Secretary of "Kalamin Agni Sirahugal Trust", having office at No.14, Senthil Street, Teachers Colony, Kodungaiyur, Chennai-118 and in compliance of the order dated 27.11.2018, he filed an additional affidavit dated 30.11.2018, wherein he stated about himself only and took a stand that he has no connection with Thiru S.Kumar, except the present litigation.

28. The deponent of the affidavit, namely Thiru.M.Senthil Kumar, who claims to be the Secretary of "Kalamin Agni Sirahugal Trust", in the typed set of documents at Page No.81 has filed the Registration Certificate of the petitioner's Trust and a perusal of the same does not disclose the name of the said Society/Trust. The petitioner has also failed to produce the Trust Deed and the list of Trustees as directed by this Court, vide order dated 27.11.2018 and it prima facie creates a doubt in the mind of this Court as to the constitution of the said Trust and it's endeavour to project the public interest to save the Pallikaranai Marshlands.

29. It is also to be pointed out at this juncture that paragraph No.4 of the affidavit speaks about the people who belong to below poverty line living on the forest lands and they being termed as encroachers and though paragraph Nos.4 and 5 of the affidavit refers to some earlier writ petitions filed by the occupiers and obtaining of interim orders, the petitioner has failed to disclose the writ petition number as well as miscellaneous petition numbers. W.P.No.693 of 2015 was filed by Mr.M.Sadasivam and 62 others against the Additional Chief Secretary, Municipal Administration and Water Supply and 3 others, which pertains to G.O.Ms.No.127, Municipal Administration and Water Supply Department dated 24.12.2012 and quash the same and consequently, to exclude the petitioner's residential area from Reserve Forest in S.No.657/2A1, Pallikaranai Village. Sholinganallur Taluk, Kancheepuram District. It is very pertinent to point out at this juncture that the Municipal Administration Department, vide above cited Government Order, has transferred lands in favour of the Forest Department and it admeasures 448.55.0 Hectares (1107.92 acres) and from the prayer, this Court can make it clear that the petitioners are occupiers of the lands which have been handed over to the Forest Department and according to the counter affidavit filed on behalf of the Forest Department in this writ petition, the said lands along with other lands were transferred to them with effect from 16.08.2018. The said writ petition was filed by none other than Mr.P.Vijendran, who is the learned counsel for the petitioner in this writ petition and one of the petitioners is Thiru S.Kumar. Though this Court has entertained the writ petition and called for certain details as to the extent of Pallikaranai Marshlands and as to the action taken against the encroachers and further details and though the said

documents form part of the typed set filed along with the writ petition, the details of which have not been stated in the affidavit filed in support of the writ petition filed by the very same learned counsel on record.

30. It is a settled position of law that the principle of pleadings is equally applicable to a writ proceedings, which is also in the nature of original proceedings and however, the petitioner, for the reasons best known to him, did not disclose the said material fact.

31. The Hon'ble Mr. Justice N. Kirubakaran, while dealing with the petition for anticipatory bail in Crl.O.P.No.4413 of 2013 filed by two petitioners with regard to the allegations that they fabricated the documents in Pallikaranai marshlands admeasuring to an extent of 66.70 acres, had passed orders giving certain directions for production of the said documents and the details of the Marshlands in Pallikaranai have been submitted to the learned Judge and the said details have been incorporated in Paragraph Nos.5 to 10 of the order dated 18.11.2016 made in Crl.O.P.No.4413 of 2013 and the survey numbers of the lands purchased by the 12th respondent sought to be mortgaged with the 13th respondent did not find place in the details submitted to the said learned Judge.

32. As already pointed out, on presentation of documents, the Joint I Sub-Registrar, Saidapet, Chennai has sought clarification from the Tahsildar, Sholinganallur, who, on going through the materials, found that the lands sought to be mortgaged by the 12th respondent are only patta lands and similarly District Forest Officer has also given the details of the Pallikaranai Marshlands in Paragraph No.4a of his counter affidavit and a perusal of the said details would disclose that the lands of the 12th respondent were not included/shown as Marshlands located at Pallikaranai.

33. It is also the stand of the learned Additional Advocate General that guideline value was there till 31.03.2012 and since they came across several fraudulent transactions, thought fit to classify the lands as Government lands with effect from 01.04.2012 and insofar as the presentation of the document for registration by the 12th respondent, they caused verification and found that patta lands has been given guideline value of Rs.3,050/- per Sq.Ft. for the purpose of registration of the said document and the said registration will be done on case to case basis and the said submission, on instructions based on the counter affidavit, is placed on record.

34. The petitioner sought to challenge the parent title deeds of the 12th respondent and in the considered opinion of the Court, he lacks locus standi to do so. Attention of this Court was also invited to those documents and elaborate arguments were advanced by the learned counsel appearing for the petitioner. In the considered opinion of the Court, the said submission made by the learned counsel appearing for the petitioner in that regard lacks legal basis for the reason that admittedly, the documents were of

the years between 1920 and 1990 and minors interest sought to be conveyed and as per Article 60(a) of the Limitation Act, 1963 they are entitled to make challenge within 3 years from the date of attaining majority and it is not brought to the knowledge of this Court that such a challenge came to be made. Of-course it is for the petitioner to explain as to how he got the photocopies of the documents presented by the 12th respondent for registration as well as prior documents of title relating to the said properties for the purpose of strengthening his stand that he is a bonafide Public Interest Litigant.

35. The submission made by the learned counsel appearing for the petitioner on guideline value has no application to the case on hand for the reason that as per the counter affidavit of the Joint I Sub-Registrar, Saidapet, Chennai, the said lands had been classified as residential lands upto 31.03.2012 and it was classified as Government lands with effect from 01.04.2012 and the fact remains that guideline at Rs.3,050/- was available only upto 31.03.2012 and only for the purpose of registration of the mortgage deed, the said value has been obtained and even otherwise, the mortgage deed cannot be considered as document of conveyance or sale.

36. The counter affidavit of the 13th respondent, who had advanced loan of Rs.1350 Crores based on the mortgage of the said immovable properties, would also disclose that they have thoroughly done their research and gone through the documents and after obtaining legal opinion found that the title is clear and therefore, accepted the same as security and hence, it cannot be tested in this writ petition.

37. This Court, on a careful consideration of the submissions made by the respective parties and the averments made in the writ petition as well as the counter affidavits along with the typed set of documents, is of the prima facie view that the petitioner lacks locus standi to maintain this writ petition and even otherwise, the truth, validity and otherwise of the title of the 12th respondent cannot be gone into in this writ petition as it revolves around adjudication of disputed question of facts. It also prima facie appears that the petitioner is espousing the cause of one of the encroachers of the lands, possession of which has been handed over in favour of the Forest Department.

38. In the light of the reasons assigned above, this Court is of the considered view that no prima facie case has been made out to continue the interim orders already granted and balance of convenience as on today lies in favour of the respondents 12 and 13.

39. In the result, **the interim order dated 01.10.2018 made in WMP.Nos.29330 and 29331 of 2018 is vacated and accordingly, these miscellaneous petitions are dismissed.** Post the main writ petition along with the connected writ petitions pertaining to

Pallikaranai Marshlands on 25.01.2019 after obtaining appropriate orders.

-sd/-
20/12/2018
/ TRUE COPY /

THIS PETITION HAVING BEEN POSTED ON THIS 20TH DECEMBER 2018 FOR BEING MENTIONED IN PURSUANCE TO THE ORDER OF THIS COURT DATED 10.01.2019 AND MADE HEREIN, IN THE PRESENCE OF THE AFORESAID ADVOCATES THE COURT MADE THE FOLLOWING ORDER.

[Order of the Court was made by M.SATHYANARAYANAN, J.,]

In the light of paragraph No.5 of Memo dated 02.01.2019, the learned counsel for the writ petitioner would submit that there are certain omissions and errors in the order and therefore, prays for appropriate modification.

2 It is to be pointed out at this juncture that this Court in the order dated 20.12.2018 made in WMP.Nos.29330, 29331 & 29329/2018, has given reasons as to the bona fide of the writ petitioner in prosecuting this writ petition and that apart, the contents of paragraph No.5 of the Memo cannot be answered by this Court by way of 'Being Mentioned'. Therefore, the Memo dated 02.01.2019 is rejected.

sd/-
20/12/2018
/ TRUE COPY /

Sub-Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE SECRETARY,
THE GOVERNMENT OF INDIA MINISTRY OF
ENVIRONMENT, FOREST AND CLIMATE,
UNION OF INDIA, NEW DELHI.

2 THE SECRETARY,
THE GOVERNMENT OF TAMIL NADU,
MUNICIPAL ADMINISTRATION AND WATER SUPPLY (MC-1)
DEPARTMENT, FORT ST. GEORGE, CHENNAI - 9

3 THE COMMISSIONER,
CORPORATION OF CHENNAI,
RIBBON BUILDING, CHENNAI.

4 THE DISTRICT COLLECTOR,
COLLECTORATE, KANCHEEPURAM DISTRICT.

5 THE TASHILDAR,
TALUK OFFICE SHOZHINGUNALLUR,
KANCHEEPURAM DISTRICT.

6 THE PRINCIPAL CHIEF CONSERVATOR
OF FORESTS AND CHIEF WILD
LIFE WARDEN, THE CONSERVATION AUTHORITY OF
PALLIKARANAI MASHLAND, PANAGAL MALIGAI,
SAIDAPET, CHENNAI - 15.

7 THE DISTRICT FOREST OFFICER,
VANDHAVASI ROAD, KANCHEEPURAM TALUK AND DISTRICT.

8 THE INSPECTOR GENERAL OF
REGISTRATION, SANTHOME HIGH ROAD, CHENNAI.

9 THE DEPUTY REGISTRATION
GENERAL, CHENNAI ZONE, CHENNAI.

10 THE SUB REGISTRAR OFFICE
SOUTH ZONE, SAIDAPET, CHENNAI.

11 THE JOINT DIRECTOR
CENTRAL BUREAU OF INVESTIGATION (CBI),
SHASTRI NAGAR, ADYAR, CHENNAI,
TAMIL NADU - 600 020

C.C. to M/S.P.VIJENDRAN Advocate SR.No.579

C.C. To M/S.ANAND SADHIDHARAN Advocate SR.No.15768

The Government Advocate, High Court, Madras-104.SR.No.16025 & 16036

Order
in
WMP NOS.29330 AND 29331 OF 2018
IN WP.NO.25223 OF 2018
Date :20/12/2018

From 26.2.2001 the Registry is issuing certified
copies of the Interim Orders in this format
SDR 27.12.2018

SDR 22.01.2019