

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.11.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.P.No.28698 of 2018
and WMP Nos.33517 & 33520 of 2018
& WP No.28703 of 2018
& WMP Nos. 33524 & 33525 of 2018

Thiripuram Kandasamy ... Petitioner in WP 28698/18

Sivaraman ... Petitioner in WP 28703/18

Vs.

1. The District Collector,
Thiruvallur District,
Thiruvallur.
2. The Tahsildar,
Thiruvottiyur Taluk Office,
Thiruvottiyur High Road,
Thiruvottiyur, Chennai 600 019.
3. The Deputy Collector/Estate Officer/Deputy Collector,
Chennai Metro Rail Ltd.,
CMRL Depot, Admn Building,
Poonamallee High Road,
Koyambedu, Chennai 600 107.

... Respondents 1 to 3 in all the petitions

The Revenue Inspector,
Thiruvottiyur High Road,
Thiruvottiyur,
Chennai 600 019. 4th Respondent in WP 28703/18

Writ Petition Prayers:- Petitions filed under Article 226 of the
Constitution of India praying for issuance of a

(i) Writ of Certiorarified Mandamus, calling for the
records relating to the proceedings of the respondents 1 and 2
in reference No.2018/9005/01/525285/0720 dated 19.09.2018 of the
1st respondent herein and in Na.Ka.No.1762/2017/A1 dated

07.11.2017 and 09.07.2018 of the 2nd respondent herein as illegal, arbitrary, void abinitio and direct the 3rd respondent to pay the due compensation for the petitioner's property comprised in S.No.237/127-A part, T.S.No.62/10, Ward No.I, Block No.13, Door No.890, Tiruvottiyur High Road, Tiruvottiyur, Chennai 600 019 (land and superstructure of the building) within a time to be stipulated by this Hon'ble Court. (in WP No.28698/18)

(ii) Writ of Certiorarified Mandamus, calling for the records of the impugned proceedings in reference No.2018/9005/01/525264/0720 and 2018/9005/01/525278/0720 dated 19.09.2018 of the 1st respondent herein and in Na.Ka.No.1762/2017/A1 dated 09.07.2018 and in Na.Ka.No.1762/2017/A1 dated 09.07.2018 of the 2nd respondent herein and in Na.Ka.No.1762/2017/A1 dated 14.06.2018 and in Na.Ka.No.1762/2017/A1 dated 14.06.2018 of the 4th respondent herein as illegal, arbitrary, void abinitio and direct the 3rd respondent to pay the due compensation for the petitioner's property comprised in S.No.237/127-A part, Ward No.I, Block No.13, Door No.890, Tiruvottiyur High Road, Tiruvottiyur, Chennai 600 019 to an extent of 27 sq ft out 132 sq. ft South side and 27 sq. ft. out of 132 north side total 54 sq. ft. (land and building) within a time to be stipulated by this Hon'ble Court. (in WP 28703/18)

For Petitioner : Mr.A.Sivaji

For Respondents: Ms. M.Lalitha, Government Advocate
for R1 & R2
Mr. Jayesh B.Dolia for R3

C O M M O N O R D E R

(Judgment of the Court was delivered by R.SUBRAMANIAN, J.)

The prayer in the Writ Petitions are as follows:

(i) Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the respondents 1 and 2 in reference No.2018/9005/01/525285/0720 dated 19.09.2018 of the 1st respondent herein and in Na.Ka.No.1762/2017/A1 dated 07.11.2017 and 09.07.2018 of the 2nd respondent herein as illegal, arbitrary, void abinitio and direct the 3rd respondent to pay the due compensation for the petitioner's property comprised in S.No.237/127-A part, T.S.No.62/10, Ward No.I, Block No.13, Door No.890, Tiruvottiyur High Road, Tiruvottiyur, Chennai 600 019 (land and superstructure of the

building) within a time to be stipulated by this Hon'ble Court. (in WP No.28698/18)

(ii) Writ of Certiorarified Mandamus, calling for the records of the impugned proceedings in reference No.2018/9005/01/525264/0720 and 2018/9005/01/525278/0720 dated 19.09.2018 of the 1st respondent herein and in Na.Ka.No.1762/2017/A1 dated 09.07.2018 and in Na.Ka.No.1762/2017/A1 dated 09.07.2018 of the 2nd respondent herein and in Na.Ka.No.1762/2017/A1 dated 14.06.2018 and in Na.Ka.No.1762/2017/A1 dated 14.06.2018 of the 4th respondent herein as illegal, arbitrary, void abinitio and direct the 3rd respondent to pay the due compensation for the petitioner's property comprised in S.No.237/127-A part, Ward No.I, Block No.13, Door No.890, Tiruvottiyur High Road, Tiruvottiyur, Chennai 600 019 to an extent of 27 sq ft out 132 sq. ft South side and 27 sq. ft. out of 132 north side total 54 sq. ft. (land and building) within a time to be stipulated by this Hon'ble Court. (in WP 28703/18)

2. The petitioners have challenged the orders passed under Section 6 of the Tamil Nadu Land Encroachment Act, 1905, solely on the ground that the land in question on which the petitioners have put up superstructure are classified as "Grama Natham" and the Government has also issued pattas to them. It is also the case of the petitioners that in the year 2011, a portion of these lands were acquired by the Government, under the Tamil Nadu Highways Act, 2001. An award was also passed determining the compensation payable to the petitioners in respect of the lands belonging to them. Again in the year 2016, a notification was published under Section 3(1) of the Tamil Nadu Acquisition of Land for Industrial Purpose Act, 1997, seeking to acquire a portion of these lands from the petitioners. While things stood thus, the Tahsildar, Thiruvottiyur, has passed order under Section 6 of the Tamil Nadu Land Encroachment, Act 1905, treating the petitioners as encroachers.

3. We have considered substantially similar case in WP Nos.26234 and 26237 of 2018, in which also the orders passed under Section 6 of the Tamil Nadu Land Encroachment Act, by the very same Tahsildar were under challenge. By a detailed order dated 11.10.2018, we have held that the petitioners who are in possession of "Grama Natham" lands cannot be treated as encroachers and the lands classified as "Grama Natham" do not vest in the Government to enable the Government to take proceedings, under the Tamil Nadu Land Encroachment Act, III of 1905.

4. In view of the said decision, all these writ petitions are allowed. The order impugned in the Writ Petitions are quashed, leaving it open to the Government to acquire the lands by paying compensation, if the Government requires the same for any public purpose. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

jv

To

1. The District Collector,
Thiruvallur District,
Thiruvallur.
2. The Tahsildar,
Thiruvottiyur Taluk Office,
Thiruvottiyur High Road,
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Koyambedu, Chennai 600 107.
4. The Revenue Inspector,
Thiruvottiyur High Road,
Thiruvottiyur, Chennai 600 019.

+2cc to Mr.A.Sivaji, Advocate, S.R.No. 75467,75468
+1cc to Mr.Jayesh Dolia, Advocate, S.R.No. 75198
+1cc to the Government Pleader, S.R.No. 75898

W.P.No.28698 of 2018
and WMP Nos.33517 & 33520 of 2018
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SSV(CO)
GN(18/12/2018)