

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 18.9.2019  
PRONOUNCED ON: 25.9.2019

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI, ACTING CHIEF JUSTICE  
AND  
THE HON'BLE MR.JUSTICE C.SARAVANAN

Writ Petition Nos.11156 of 2018 & 24500 of 2019

W.P.No.11156 of 2018

S.Raja .. Petitioner  
Vs.

1. The Secretary  
Government of Tamil Nadu  
Revenue Department  
Fort St. George  
Chennai 9.
2. The Special Commissioner of Land Administration  
Chepauk  
Chennai 5.
3. The District Collector  
Kancheepuram District.
4. The Sub Collector  
Divisional Office  
Chengalpattu  
Kancheepuram District.
5. The Tahsildar  
Chengalpattu Taluk  
Kancheepuram District.
6. C.E.Satyanarayana Reddy
7. Casagrand Buildings Private Ltd.  
rep. by its Managing Director  
5th Floor, NPL Devi  
No.111, LB Road  
Thiruvannamiyur  
Chennai 41.

8. The Tahsildar  
Thiruporur Taluk  
Kancheepuram District.

[Impleaded vide order dated 31.8.2018  
made in WMP No.24282 of 2018 in  
WP.No. 11156/2018)

9. The Additional Chief Secretary /  
Commissioner of Land Reforms  
Chepauk, Chennai 5.

[Impleaded vided order dated 02.4.2019  
made in WMP No.10430 of 2019 in  
WP.No. 11156/2018]

10. C.E.Suryanarayan

[Impleaded vide order dated 08.07.2019  
made in WMP No.19128/2019 in WP. 11156/18] .. Respondents

W.P.No.24500 of 2019

Casagrand Builder Private Limited  
rep. by its Senior Manager,  
5th Floor, NPL Devi  
No.111, LB Road  
Thiruvanmiyur, Chennai 41. .. Petitioner

Vs.

1. The Secretary  
Government of Tamil Nadu  
Revenue and Disaster Management Department  
Fort St. George, Secretariat  
Chennai 9.
2. The Special Commissioner of Land Administration  
Chepauk  
Chennai 5.
3. The District Collector  
Kancheepuram District.
4. The Assistant Commissioner of Land Reforms  
Chepauk  
Chennai 600 005.
5. The Assistant Director of Survey of Kancheepuram  
Kancheepuram District  
Kancheepuram.

6. The Tahsildar  
Chengalpet Taluk  
Kancheepuram District.

7. C.E.Satyanarayana Reddy .. Respondents

-----

Petitions under Article 226 of the Constitution of India  
praying for:

W.P.No.11156 of 2018 - a writ of Mandamus directing the  
official respondents, more particularly 2nd and 3rd respondent  
to inspect the village records as early as before 1966 and find  
out the Government land and remove the encroachment and correct  
mutation of revenue records and take possession of the  
Government land in accordance with law; and

W.P.No.24500 of 2019 - a writ of Certiorari to call for the  
records relating to the proceedings of the 1st respondent  
herein, viz. the Government Order in G.O.Ms.No.283 dated  
09.08.2019 insofar as Survey No.163 and 164 of Thazhambur  
Village, Kancheepuram District and quash the same.

-----

|                   |                             |
|-------------------|-----------------------------|
| WP No.11156/18    |                             |
| For Petitioner    | : Mr.R.Narendran            |
| For Respondents   | : Mrs.Narmadha Sampath      |
| 1 to 5,8 & 9      | Addl. Advocate General      |
|                   | Assisted by                 |
|                   | Mr.V.Jayaprakash Narayanan, |
|                   | Government Pleader          |
| For Respondent-6  | : No appearance             |
| For Respondent-7  | : Mr.AR.L.Sundaresan, S.C.  |
|                   | For Mrs.AL.Ganthimathi      |
| For Respondent-10 | : Mr.T.V.Ramanujam, S.C.    |
|                   | For M/s. Madhura G.Ramesh   |
| WP No.24500/19    |                             |
| For Petitioner    | : Mr.AR.L.Sundaresan, S.C.  |
|                   | For Mrs.AL.Ganthimathi      |
| For Respondents   | Mrs.Narmadha Sampath        |
| 1 to 6            | : Addl. Advocate General    |
|                   | Assisted by                 |
|                   | Mr.V.Jayaprakash Narayanan  |
|                   | Government Pleader          |

O R D E R

Dr.Vineet Kothari,J

S.Raja, son of Shri Subrayan, who is a resident of Thalambur Village, Navalur, Kancheepuram District, and claims to be an unskilled labourer, having below taxable income, has filed W.P.No.11156 of 2018 as Public Interest Litigation, seeking a direction to the Government Officials, namely the Special Commissioner of Land Administration and the District Collector, Kancheepuram, to inspect the village records of Thalambur Village, Navalur, Kancheepuram District, of the period preceding the year 1966 and after ascertaining as to whether any encroachment has been made, to remove such encroachments and to correct the mutation of the revenue records and take possession of the Government land in accordance with law.

2. In the accompanying affidavit, the said petitioner stated that the sixth respondent Mr.C.E.Satyanarayana Reddy sold the land of 15 standard acres, which was allotted to him on 18.12.1988, in favour of the seventh respondent M/s. Casagrand Builder Private Limited. This sale made by the sixth respondent, in favour of the seventh respondent, according to the petitioner, was without due title and authority and therefore, the whole allotment process was illegal and void ab initio.

3. Upon issuance of notices, the respondents have filed the Statement of Objections and the State has also filed its counter.

4. From the counter affidavit filed on behalf of the State Government, by the District Collector, Kancheepuram, it appears that the land in the said Thazhambur Village in Chengalpattu Taluk was notified and taken over by the Government under the Tamil Nadu Estates (Abolition & Conversion) into Ryotwari Act XXVI of 1948, in the year 1951 and Ryotwari Settlement was introduced in the year 1959 (Fasli 1369). After the said Act came into force in the year 1959, the lands were vested with the Government as per the notification issued in G.O.Ms.No.2302, Revenue, dated 01.09.1951 and the owner of the land needed to prove the ownership and make a claim under the relevant Sections of the said Act of 1948.

5. The sixth respondent, Satyanarayana Reddy preferred a petition to the Director of Survey and Settlement, Chennai, seeking patta, under the Act 26 of 1948 in respect of the lands situate in Survey Nos.163 & 164 of Thazhambur Village, which was originally purchased by one Mr.Perumalsamy Reddy, through Court Auction Sale in E.P.No.298 of 1929 in O.S.No.279 of 1921 on the file of District Munsif Court, Chengalpattu, which was registered in the office of the Sub Registrar, Thiruporur.

6. On 28.03.1980, it appears that again the sixth respondent filed an application before the Special Commissioner of Land Administration seeking grant of patta outside the scope of the Abolition Act 26 of 1948. But, the said petition was rejected as the same was filed beyond the prescribed period of time, as per the orders issued in G.O.Ms.No.1330, Revenue Department, dated 30.04.1971.

7. The said Satyanarayana Reddy filed a petition to the Government to consider his request for the grant of patta outside the scope of the Abolition Act 26 of 1948 and the Government, vide G.O.Ms.No.239 dated 19.03.1996, condoned the delay in filing the petition and also directed the District Revenue Officer, Chengalpattu to consider his claim under G.O.Ms.No.1300, Revenue Department, dated 30.4.1971.

8. On 30.08.1997, the District Revenue Officer, Kancheepuram is said to have granted patta to Satyanarayana Reddy for an extent of 15 standard Acres in Thazhambur Village, on the condition that the lands already owned and the lands given in the proceedings put together shall not exceed the ceiling limit fixed under the Tamil Nadu Land Reforms Act, 1961 and 1970 and at the same time, rejected the claims of other family members, with a direction to approach the Government to get suitable orders for grant of patta or to approach the civil Court for appropriate relief.

9. On 25.9.1998, the Commissioner of Land Administration set aside the proceedings dated 30.08.1997 of the District Revenue Officer, Kancheepuram and issued directions to grant patta to all five persons, including Satyanarayana Reddy, subject to the ceiling limit of 15 standard acres, in which, holding of each shall include already owned patta lands if any, which were owned by them.

10. By G.O.Ms.No.164, Revenue Department, dated 23.03.2000, the Government issued orders cancelling the order issued in G.O.Ms.No.239, Revenue Department, dated 19.03.1996, wherein the delay on the part of Satyanarayana Reddy and others in filing the application for grant of patta was condoned and patta was directed to be issued, based on the objection made by one Mr.V.Dhandapani.

11. The said G.O.Ms.No.164 dated 23.03.2000 was challenged by Satyanarayana Reddy and others in W.P.Nos.6165, 6525 and 7346 of 2000, which came to be allowed by the learned Single Judge of this Court on 13.05.2003.

12. The State preferred writ appeals against the said order in W.A.Nos.2785 to 2787 of 2003 and the same were dismissed by the Division Bench of this Court.

13. Thereupon, accepting the said judgment of the Division Bench, the State Government issued G.O.Ms.No.794, Revenue Department, dated 07.12.2006 restoring the earlier G.O.Ms.No.239, Revenue Department, dated 19.03.19966 and consequently, the Joint Commissioner (Land Reforms), Villupuram, issued orders on 23.10.2008 determining the extent of lands to be owned by Satyanarayana Reddy and others.

14. Accordingly, the Tahsildar, Chengalpet, issued pattas in the name of the sixth respondent Satyanarayana Reddy on 03.02.2009, which land came to be sold by the said sixth respondent through his Power of Attorney and his legal heirs to four different persons, by way of two registered sale deeds, who, in turn have entered into a Joint Development Agreement on 23.11.1994, with the seventh respondent M/s. Casagrand Builder Private Limited, who is the writ petitioner in W.P.No.24500 of 2019.

15. The State Government issued G.O.Ms.No.283 dated 09.08.2019 to hold a discreet enquiry into the whole allotment process again. Being aggrieved by that, the seventh respondent M/s. Casagrand Builder Private Limited, has filed W.P.No.24500 of 2019, which was also heard by us.

16. From the aforesaid facts, it would be clear that the prayer was made by the writ petitioner in Public Interest Litigation Mr.S.Raja for holding an enquiry into the entire allotment process in favour of the sixth respondent and the subsequent sale in favour of the seventh respondent M/s. Casagrand Builder Private Limited.

17. The respondent State, broadly agreeing with the petitioner, has initiated the discreet enquiry into the matter by the recent Government Order in G.O.Ms.No.283 dated 09.08.2019 which has been assailed by the seventh respondent Company in the connected writ petition in W.P.No.24500 of 2019.

18. Thus, in our opinion, the purpose of the public interest writ petition filed by S.Raja has been achieved and served by the State Government, by initiating discreet enquiry into the matter. In view of this, this Court is not inclined to proceed further with the present Public Interest Litigation and pass any further directions in the matter. Therefore, we dispose

of the said Public Interest Litigation in W.P.No.11156 of 2018 and consequently, the interim order granted by the Co-ordinate Bench in the matter of maintaining status quo is liable to be vacated and the same is, accordingly, vacated.

19. Coming to the connected writ petition, W.P.No.24500 of 2019 filed by the seventh respondent in the Public Interest Litigation, namely M/s. Casagrand Builder Private Limited, wherein a challenge has been laid to the said G.O.Ms.No.283 dated 09.08.2019 mainly on the ground that the validity of the allotment process has already been decided by this Court in the earlier round of litigation by the learned Single Judge in the order dated 13.05.2003 in W.P.No.6165 of 2000 and other connected writ petitions filed by Mr.Satyanarayana Reddy, which order of the learned Single Judge has also been upheld by the Division Bench of this Court in W.A.No.2785 to 2797 of 2003 dated 27.04.2004 [State of Tamil Nadu v. C.E.Satyanarayana Reddy & Others] and therefore, a second round of enquiry cannot be permitted in respect of the same.

20. In the said writ appeals in W.A.No.2785 to 2797 of 2003 dated 27.04.2004, the observations made by the Division Bench, read as under:

"19. Appreciating the order of the Special Commissioner it is found that the Special Commissioner has come to the conclusion that possession of the respondents with respect to the lands in question was not at all in dispute. Even with respect to the assignment of lands given to the freedom fighters the same was taken into consideration and the same was excluded from consideration while considering the respondents case for issuance of patta. The objection of the freedom fighters also was taken into consideration by the authorities while considering the respondents application for grant of patta. Moreover the respondents application for patta was considered after calling for the objections twice, one before the order passed in W.P.No.9951/1996 and also thereafter. The Government also considered the persons for the delay on the basis of the records produced before them and satisfied with the said delay. So it cannot be said that no materials were produced before the Government for the delay in making such application. When the authorities have passed the order after calling for objection from the public, as rightly found by the learned

Judge, the impugned order cannot be termed as if it is passed in the interest of public and fixing the public element in this case does not arise, as the lands for which pattas were issued had been in effective physical possession of the writ petitioners and issuance of patta does not affect anybody.

20. The learned Judge also has dealt with the facts only from the records produced by the learned Government Pleader which were also available before the Government when the original order passed, which is sought to be cancelled under the impugned order. The learned Judge has not relied on any new material to come to the conclusion that the reasoning given in the impugned order is to cancel the earlier order dated 19.03.1996.

21. It is also relevant to point out that the impugned order dated 13.05.2003 was passed at the instance of some leader of a political party who gave a letter to the Government objecting the grant of patta to the writ petitioners. The learned Judge perused the letter in original and found that the said letter is bereft of any particular except said averments and he did not substantiate the fact regarding the assignments made in favour of freedom fighters was not taken into consideration. Pursuant to the notice calling for objections, the freedom fighters who got the allotment of lands in Thalambur Village objected the grant of patta and the same was taken into consideration by the Government while passing the order and so, it cannot be said that the Government had lost sight of all these objections and passed the earlier order dated 19.03.1996 in favour of the respondents and so the respondents set out in the impugned order are not only supported by any materials but also contrary to the records.

22. In view of the foregoing discussion, we do not find any reason to interfere with the impugned order dated 13.05.2003 passed by the learned single Judge, which is based on materials available on record. Accordingly, these writ appeals are dismissed." (emphasis supplied)

21. On the other hand, learned Additional Advocate General Mrs.Narmadha Sampath, vehemently submitted that the whole process

of allotment of land in favour of the sixth respondent, who, in turn, has illegally sold the land to the seventh respondent, the petitioner in W.P.No.24500 of 2019 was tainted with a fraud and therefore, the State is entitled to hold an enquiry into the matter and unearth such fraud and for the said purpose, G.O.Ms.No.283 dated 09.08.2019 was issued and hence, the same does not require any interference by this Court.

22. The learned Additional Advocate General further submitted that the total extent of the land for the family of the sixth respondent has swelled from 15 standard acres for one member of one family, to 300 acres of land and therefore, the whole matter in respect of the issue of patta deserves an enquiry.

23. The learned Additional Advocate General drew our attention to the proceedings of the Special Commissioner and Commissioner of Land Administration, Chepauk, Chennai, dated 25.9.1998 and submitted that even the original patta issued in favour of the predecessor-in-title Mr.Perumalsamy Reddy was only 17.11 acres, whereas the sixth respondent has entered into sale agreements with land admeasuring much more in acres and therefore, it is a matter to be enquired at this stage.

24. The learned Additional Advocate General also drew our attention to the order dated 23.10.2008 passed by the Joint Commissioner (Land Reforms), Villupuram and submitted that the total land holdings of the said family at their disposal would be only 60 standard acres. The relevant paragraphs of the said proceedings are extracted below for ready reference.

"5. A perusal of the orders of the Tahsildar, Chengalpattu, reveals that while the other members were given the opportunity to furnish the list of lands which they desire to keep within their respective ceiling limits, the land owner Thiru Sathyanarayanan does not appear to have been given such an opportunity. The request of the land owner is genuine. The list of lands which he desires to have within his ceiling limit furnished by him and which is shown in Annexure A is therefore accepted. Consequently, the list of surplus lands selected are shown in Annexure B.

6. Thus, the holdings are determined as follows:

|     |                                                                                       | Hectare  | Std.<br>acre |
|-----|---------------------------------------------------------------------------------------|----------|--------------|
| (a) | Total holdings for which title was conferred by the Settlement Authorities            | 150.95.0 | 97.682       |
| (b) | Add: Lands already owned by C.Sathyanarayanan                                         | 7.40.5   | 8.676        |
| (c) | Total holdings                                                                        | 158.35.5 | 106.368      |
| (d) | Retainable portion (i.e. 15 Std. acre) for the land owner viz. Thiru Sathyanarayanan) | 22.79.0  | 15.000       |
| (e) | Retainable portion for the other four family members                                  | 92.44.0  | 60.000       |
| (f) | Total retainable portion                                                              | 115.23.0 | 75.000       |
| (g) | Total surplus lands from all the five members                                         | 43.12.5  | 31.358       |

7. In the above circumstances, an extent of 43.12.5 hectares equivalent to 31.358 std. acres being the total surplus rendered from the holdings of the five members, are hereby ordered to be transferred to Government under Section 20 of the Tamil Nadu Land Reforms (Fixation of Ceiling of Land) Act, 1961 as amended."

25. The learned senior counsel for the petitioner Mr.AR.L.Sundaresan, vehemently opposed these submissions on the ground that no such repetitive enquiry is permitted and drew our attention towards the media publicity given by the District Collector of Kancheepuram dissuading the public at large not to enter into transactions with respect of the said land where 300 Villas have been developed by the petitioner company M/s. Casagrand Builder Private Limited.

26. Mr.Satish Parasaran, learned senior counsel appearing for the purchaser of one of the Villas also supported the contentions of the learned senior counsel appearing for the petitioner company and also submitted that the status quo order passed in the Public Interest Litigation has caused prejudice to the purchasers of such properties, as they are unable to further alienate the property or develop the same.

27. Having heard the learned senior counsel for all the parties and learned Additional Advocate General we are of the opinion that this Court cannot pre-empt or cut short the enquiry in the matter particularly, a discreet enquiry, as directed by

the State under the recently issued G.O.Ms.No.283 dated 09.08.2019, impugned in the writ petition W.P.No.24500 of 2019 filed by M/s. Casagrand Builder Private Limited, as such administrative orders for initiating enquiry cannot be said to be operating to the prejudice of any of the persons, including the petitioner company before this Court, unless a specific action, notice or order is issued against any of the persons holding the land in question and therefore, in our considered opinion, no cause of action arises to them to challenge such administrative orders for initiating discreet enquiry, at this premature stage.

28. Further, from a reading of G.O.Ms.No.283 dated 09.08.2019, we do not find anything to hold that the discreet enquiry is directed against any specific person. Therefore, we are not inclined to interfere with the said Government Order in any manner. However, by way of a word of caution, we would like to observe that without concluding the enquiry on the basis of the relevant materials, which we expect the respondent State to conclude expeditiously, the District Collector or any authority of the State should not indulge in any adverse media publicity and cause prejudice to the parties indirectly. The right to enter into contracts of the parties or to deal with the property cannot be adversely affected, without holding a proper enquiry and initiating appropriate legal action in accordance with law.

29. We, therefore, dispose of W.P.No.24500 of 2019 also, without interfering with G.O.Ms.No.283 dated 09.08.2019 in any manner and we express our hope that the enquiry now sought to be initiated by the said G.O. would be completed within a period of six months from today. We further make it clear that if any action, notice or order is passed against any person, the said person is free to avail his legal remedy further, in accordance with law.

30. In the result, both the writ petitions are disposed of. There shall be no order as to costs. Consequently, WMP Nos.13095 & 13096 of 2018, 24215, 24217, 26165, 26917 and 6790 of 2019 are closed.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

kpl

To

1. The Secretary  
Government of Tamil Nadu  
Revenue Department, Fort St. George  
Chennai 9.
2. The Special Commissioner of Land Administration  
Chepauk, Chennai 5.
3. The District Collector, Kancheepuram District.
4. The Sub Collector  
Divisional Office, Chengalpattu  
Kancheepuram District.
5. The Tahsildar  
Chengalpattu Taluk, Kancheepuram District.
6. The Tahsildar  
Thiruporur Taluk, Kancheepuram District.
7. The Additional Chief Secretary /  
Commissioner of Land Reforms  
Chepauk, Chennai 5.
8. The Secretary  
Government of Tamil Nadu  
Revenue and Disaster Management Department  
Fort St. George, Secretariat  
Chennai 9.
9. The Assistant Commissioner of Land Reforms  
Chepauk, Chennai 600 005.
10. The Assistant Director of Survey of Kancheepuram  
Kancheepuram District  
Kancheepuram.

+4cc to Mrs.Madhura G.Ramesh, Advocate, S.R.No. 82224  
+1cc to Mr.AL.Gandhimathi, Advocate, S.R.No.82553  
+1cc to Mr.R.Narendran, Advocate, S.R.No. 82589  
+1cc to the Government Pleader, S.R.No. 82820

WP Nos.11156 of 2018 &  
24500 of 2019

EV(CO)  
GN(14/10/2019)