

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 27.03.2019
Pronounced on: 29.04.2019

Coram

THE HONOURABLE Mr. JUSTICE M.VENUGOPAL
AND
THE HONOURABLE Mr. JUSTICE S.VAIDYANATHAN

W.P.5076 of 2016

V.B.R.Menon

... Petitioner

-vs-

1. The District Collector,
Collectorate,
Kancheepuram-631 501.
2. The District Collector,
Collectorate,
NH205, Jaya Nagar,
Thiruvallur-602 001.
3. The Special Commissioner &
Commissioner of Land Administration,
Ezhilagam, Chepauk,
Chennai-600 005.
4. The Secretary to Government of Tamil Nadu,
Revenue Department,
Fort St.George, Secretariat,
Chennai-600 009.
5. The Secretary to Government of Tamil Nadu,
Highways & Minor Ports Department,
Fort St.George, Secretariat,
Chennai-600 009.
6. The Secretary to Government of Tamil Nadu,
Public Works & Water Resources Department,
Fort St.George, Secretariat,
Chennai-600 009.
7. The Secretary to Government of Tamil Nadu,
Animal Husbandry & Fisheries Department,
Fort St.George, Secretariat,
Chennai-600 009.

8. The Secretary,
Department of Land Resources,
Ministry of Rural and Development,
Union of India, New Delhi.

... Respondents
(R8 impleaded by order dated 10.11.2016)

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for a direction to the Respondents to constitute a Permanent Special Task Force with adequate powers and responsibilities to conduct periodical inspections, field surveys and removals of encroachments from all categories of vacant government lands situated within the Revenue Districts of Kancheepuram and Tiruvallur and to take appropriate actions to ensure proper utilization of such properties, including disposals of excess lands within a prescribed time limit.

For Petitioner : Mr.V.B.R.Menon
Petitioner-in-Person

For R1 to R7 : Mrs.Narmadha Sampath
Addl. Advocate General
Asst. by Mr.S.N.Parthasarathy
Govt. Advocate

For R8 : Mr.G.Karthikeyan
Asst. Solicitor General

O R D E R

M.VENUGOPAL, J.,
AND
S.VAIDYANATHAN, J.,

This Writ Petition, which was specifically posted before this Bench for hearing on the orders of the then Hon'ble Chief Justice, has been filed in the form of Public Interest Litigation, seeking to direct the Respondents to constitute a Permanent Special Task Force with adequate powers and responsibilities to conduct periodical inspections, field surveys and removals of encroachments from all categories of vacant Government lands situated within the Revenue Districts of Kancheepuram and Tiruvallur and to take appropriate actions to ensure proper utilization of such properties, including disposals of excess lands with a prescribed time limit.

2. Heard Mr.V.B.R.Menon, Petitioner-in-Person, Mrs.Narmadha Sampath, the learned Additional Advocate General, duly assisted by Mr.S.N.Parthasarath, the learned Government Advocate, appearing for R1 to R7 and Mr.G.Karthikeyan, the Learned Assistant Solicitor General for R8.

3. The facts, leading to filing of this Writ Petition, are as follows:

i) The Petitioner-in-Person (in short 'the Petitioner') has stated that the Karnataka Government had already constituted a Task Force in 2008 for the purpose of recovery of Lands and had submitted a comprehensive report to the Government in June, 2011. The contents of the above report deals with identical problems, which are faced in the State of Tamilnadu also in toto. Based on the above Report and the problems faced by them during the study and its implementation, the reliefs sought herein have been suitably modified to achieve lasting solutions to the problems. Instead of being a recommendatory body, the Special Task Force needs to have sufficient power and authority to take decisions and to implement the same, which the Karnataka Task Force did not possess;

ii) It was further stated that a study of the Karnataka Task Force Report and the status of its implementation, reveals a few drawbacks as listed below:

(i) The Karnataka Task Force did not have adequate infrastructure to undertake such a mammoth exercise for the entire State in one stretch. The whole exercise in a phased manner would have achieved better results.

(ii) The Karnataka Task Force was basically a recommendatory body which did not have adequate powers to evict the encroachers and to retrieve the lands. The Authorities who have to implement the recommendations shall necessarily be a part of the Task Force to achieve the desired results.

(iii) The actions of the Karnataka Task Force were based on complaints received from the public and not based on any field survey of lands. Hence, it would have failed to include large extents of lands under encroachments for which no complaints were received. In the absence of accurate data on encroachments through a detailed field survey of all types of Government lands, the actions on removals of encroachments would only remain incomplete.

iii) The Petitioner further stated that there are several restricted / prohibited categories of Government Lands, classified as PWD, Highways, Animal Husbandry, Forests, Temple, etc. as per the Revenue records and the Revenue department is responsible for the protection of all such lands. Rule 39 of the Revenue Standing Order contains specific provisions for the protection and preservation of such lands for the common benefit of the public at large.

iv) The Petitioner also stated that the last State Survey operations of the Tamil Nadu state was conducted more than 30 years ago and substantial changes have occurred since then in the nature of possession and usage of lands in the above two Districts. Hence, it is just and necessary to identify, demarcate and to take physical possession of all the types of Government lands which has fallen into the possession of private individuals / institutions / others by enforcing the relevant provisions of applicable laws;

v) The Petitioner also quoted the judgment of the Hon'ble Supreme Court in Mr.Kamalnath vs. M.C.Mehta, reported in (1997) 1 SCC 388 to state that the States are only trustees of above categories of Government lands under the principle of 'Public Trust Doctrine' and the duties and responsibilities of Respondents in respect of such lands are that of Trustees and under Sections 15, 18 and 60 of The Indian Trust Act, 1882 and they are collectively duty bound to protect, preserve and utilize such lands for the common benefit of the public at large, who are the real beneficiaries of the Trust. The failure to do so shall be violative of the right to life under Article 21 and Right to equality under Article 14 of the Constitution of India through denial of enjoyment of common public properties by the common public.

vi) The Petitioner submitted that considering the geographical constraints and the man-power requirements to undertake such a study / survey of the whole State, it would be pragmatic to focus and restrict the initial study to the vacant government lands situated within the revenue districts of Kancheepuram and Tiruvallur Districts. The above two Districts are chosen primarily because of the significant changes, which have taken place therein during the last decade, due to rapid urbanisation and consequent changes of the land use patterns;

vii) The Petitioner further submitted that a bulk of the Government lands are neither demarcated through survey marks nor protected against encroachments and hence have got encroached with the active aid and assistance of the local politicians and the Field Level Revenue / user department officials. The Respondents at Senior Levels, have become aware of such encroachments only when those lands are sought for some new proposals / projects for public purposes and difficulties arise in taking possession. It was submitted that due to the above problem, retrieval of the lands from the Encroachers and timely execution / implementation of new projects have become difficult

in most cases apart from the need to institute litigations/proceedings under the Land Encroachment Act, 1905. and other statutory provisions to retrieve such lands from encroachers;

viii) It was the submission of the Petitioner that a large extent of the above category of lands have become excess, as those are no more necessary for the purposes for which those lands were originally reserved. Due to the changes in the land use patterns occurred in the last decade across most parts of the above two districts, majority of lands, classified as Water bodies, canals, grazing lands etc., have become unnecessary for those purposes as cultivation and agricultural activities have already been stopped in those areas long ago. Such lands have been grabbed by the encroachers and the interest of the public and the lawful beneficiaries of those properties, have been casualties and losers;

ix) It was further submission of the Petitioner that sizable portions of the Government lands are not required for any public purposes due to the irregular shapes of such lands. An example is the road-side margin lands of irregular shapes which have recently become the cause for several litigations and disputes due to illegal occupations and encroachments. Disposal / leasing of such excess lands to the adjoining land owners may be a worthwhile proposition. It was urged that it is necessary to compile, tabulate and publish to the knowledge of public about the present status of all such Government lands, category and survey number-wise in each and every village, showing details of present possession and suggested usage / proposed disposals of such lands. The above details must be available to the Public through appropriate publication. so that all the citizens can access these particulars and act accordingly. It was also urged that by taking into account the availability of man-power with the Respondents for undertaking such a mammoth exercise in a "time-bound manner", it is necessary to constitute a separate Special Task Force consisting of serving officials to undertake and to complete the above exercise within a prescribed time limit.

x) It was pointed out that it has become absolutely necessary to have a proper inter-departmental co-ordination and co-operation among the Respondents, while undertaking the above exercise. The existing Revenue Staff, who are over-burdened with their day-to-day works, including administration of several welfare schemes of the Government, may not be able to do the above exercise within a reasonable time period and therefore, it is imperative to have a permanent special Task Force for this purpose so as to achieve its object;

xi) It was also pointed out that the market value of lands in the above two Districts have gone up manifold during the last decade and hence the worth of the government lands in the illegal possession and enjoyment of encroachers may be to the tune of Trillion of Rupees. Denial of benefits of such huge amount of money for the benefit of the Public at large, who are the lawful beneficiaries of the Trust shall be violative of the right to equality under Article 14 as well as Right to life under Article 21 of the Constitution of India.

xii) It was further stated that after conducting field surveys of all the above Government lands, it would be necessary to ascertain whether the original purposes for holding such lands still exist or not. If the original purposes do not exist, policy regarding disposal or putting of such lands into alternate purposes may become necessary, for which adequate statutory provisions exist. It was also stated that on completion of above exercise in the above two Districts, a cost-benefit analysis could be made to decide whether similar exercises / actions should be done in the other remaining Districts of Tamil Nadu or not. It is submitted that the funds / resources that would get unlocked by the above measures may be sufficient to fund all future developmental activities of the State without the need to raise additional revenue through further taxation. Further it will also ensure productive utilisation of the government lands, thereby adding more value to the national wealth. In this regard, a detailed representation was submitted to the Respondents on 27.07.2015, seeking inspection, survey and compilation of data regarding all the categories of Government lands within their control and jurisdiction and for suitable necessary follow up actions thereafter to ensure the proper utilisation / disposal of such lands for the benefit of public at large. But no reply has been received till date and hence this Writ Petition has been filed;

xiii) It was averred that consequent to the Orders of this Hon'ble Court, the Revenue Authorities have notified a scheme to dispose of Encroachment complaints vide G.O.Ms.No.540 Revenue [LD 6(2)] Department dated 04.12.2014. However it has a very limited scope, as it applies only to those cases, which are brought before the Revenue Authorities by affected parties, whereas bulk of encroachments of Government lands are neither reported nor known for taking recourse by the Public under the above G.O., which is yet to be implemented in the above Districts. The primary need is to know through public records and publication of encroachments of Government lands to the knowledge of the Public at large, so that follow up actions may

get started by them;

xiv) It was further averred that fixing of responsibilities on the individual Government servants for the eviction and protection of respective vacant lands and stringent criminal actions against them for their collusion and criminal negligence in the matter alone can give a lasting solution to the above problems. Suitable changes to the statutory provisions and the punishments prescribed therein may also be necessary as has been recommended by the Karnataka Task force in their report. Thus, the Petitioner sought the above Mandamus by instituting the present Writ Petition in the form of Public Interest Litigation.

4. The First Respondent has filed a counter affidavit dated 23.06.2016, wherein it is inter alia stated as under:

i) Modern Survey using Global Positioning Systems (GPS) and Electronic Total Stations (ETS) is in progress in Perambalur Town and in 10 newly created Municipal Towns. In addition to the above, a pilot study was conducted and successfully completed in Uttangarai Taluk in Krishnagiri District, on the basis of which, Re-survey is proposed to be taken up in Kanniakumari, Krishnagiri and Ooty by using the modern techniques;

ii) The total extent of Government lands, based on the computerized data base of Government lands created out of the online Tamil Nilam land records data base in Kancheepuram District is 1,89,262.45.88 hec, out of which, 25377.427 Hec. (62708.99 acres) is water course poramboke. Based on the routine field survey, it was ascertained that an extent of 2579.887 Hec. has been encroached in water course poramboke and 5021.28.2 Hec. has been encroached in non water course poramboke;

iii) The Additional Chief Secretary / Commissioner of Land Administration has issued instructions to all District Collectors to rigorously undertake 100% inspection of Government lands and collect the particulars of the current land use and update the details of encroachments, if any, on these lands and a special register called Government Land Register has been printed out for each village from the Tamil Nilam land records database of Government of Tamil Nadu to carry out this exercise. It was stated that detailed instructions have been issued to enter the details collected as a result of the inspection into computer data base on the basis of which necessary action would be taken to remove the identified encroachments as per law;

iv) It was further stated that the public can access the details of any land in Tamil Nadu online through the 'eservices.tn.gov.in' website using the "Anyting Anywhere" service and it can also be ascertained as to whether a

particular land is a Government or Private land. Besides ascertaining the ownership of private lands on the website, the additional information with regard to Government lands are also available for the use of the Government functionaries and citizens are free to approach the Village Administrative Officer and check the A register for further details of Government land or to approach the Taluk Office and get a certified copy of the A register pertaining to that Government land;

v) With regard to the need for a Centralised Task Force to deal with these aspects, it was pointed out that the Government had already issued G.O.Ms.No.105, Revenue Department dated 07.03.2001, constituting a Steering Committee at the District Level consisting of the following Officials, for the purpose of identification of encroachments and carrying out a plan of action to remove them:-

1.	District Collector	Chairman
2.	Police Department-District Level Officer	Member
3.	Public Works Department - District Level Executive Engineer (Water Resources Organization)	Member
4.	Highways Department - Divisional Engineer	Member
5.	Forest Department-District Forest Officer	Member

vi) The Government also issued orders in G.O.Ms.No.186, Revenue Department dated 29.04.2003, inter alia stating that encroachments in the water bodies and water courses have to be removed then and there by all the District Collectors and Officials of Public Works Department. Apart from the above, the Special Commissioner and Commissioner of Land Administration, Chepauk, Chennai / 3rd Respondent herein has also instructed all the District Collectors in his Letter No.F1/27403/2006 dated 09.07.2007 to restrain issue of house site patta in water bodies and water course poramboke;

vii) In compliance with the order of this Court dated 11.08.2014 in W.P.No.26722 of 2013 and M.P.No.1 of 2013, the Government have duly accorded sanction in G.O.Ms.No.540, Revenue (LD6(2)) Department dated 04.12.2014 for the constitution of Redressal Committees for eviction of encroachment with the narration of procedures to be followed for eviction. Subsequent to the further directions dated 08.10.2014 issued in the very same Writ Petition, all the District Collectors were asked to give wide publicity to the common public, regarding constitution of Redressal Committees on eviction of encroachment and the

periodical action being taken by all District Collectors is duly reviewed by the Additional Chief Secretary / Commissioner of Land Administration;

viii) It was pleaded that since action has already been initiated for survey of Government lands, it is unwarranted to have a fresh survey of Government lands and the constitution of Task Force on the pattern of Karnataka State is also not necessary.

5. In the counter affidavit filed by the Second Respondent dated 23.06.2016, the very same stand, as taken by the First Respondent has been reiterated by the Second Respondent.

6. The Fourth Respondent / The Principal Secretary to Government, Revenue Department has also filed a counter affidavit dated 09.11.2016, stating as follows:

i) Tamil Nadu has been implementing the National Land Records Modernisation programme since 2008-2009 and the said scheme is now renamed as Digital India National Land Records Modernization Programme (DILRMP), which has the followig components:

"a. Computerization of Land Record -
Computerization of both textual and spatial records and their integration:

Under this component, Tamil Nadu has completed digitization of its textual land records and brought it online for easy access and retrieval from anywhere in the world. The digitization of spatial records is under progress and more than 75% of the work has been completed. It is expected that the balance work will be completed in 6 months time and these spatial recordsd will also be made available online. Even the legac manual land records like Original Survey Registers have ben scanned and preserved in digital form.

b. Establishment of data centers at State/District/Division/Taluk level:

Necessary infrastructure has been created to manage all the textual and spatial records and it is currently operational.

c. Establishment of Modern Record rooms/land Records Management Centers:

Each taluk is being provided with a modern record room and land records management centre. The work is currently under progress in 178 out of 285 Taluks. The balance will be taken up shortly.

d. Survey / Re-survey

The petitioner has submitted that DILRMP funding pattern has been changed from 50:50 sharing between Central and State Governments to 100% Central funding from the Financial Year 2016-17. The revised pattern of funding has been approved, but funds under this new pattern are yet to be released by Government of India. Petitioner has submitted that Re-survey funding has been increased from Rs.18,000/- to Rs.45,100/- per square kilometer.

It was also stated that the funding from FY 2016-17 is not Rs.45,100/-, but as under:

Sl.No .	Type of Survey Method	Existing Funding	Revised Funding (If single agency is involved)	Revised Funding (If multiple agencies are involved)
1.	High Resolution Satellite Imagery	16,000	25,500	30,600
2.	Aerial	16,500	27,600	33,120
3.	DGPS/ETS	18,500	34,050	40,860

ii) It was stated that the time period of 8 years has been arrived at on the premise that 1/3rd of Taluks can be taken up each year and it will take 4 to 5 years to complete one district. Survey/Re-survey work involves not only measurements using DGPS/ETS, but also comprises of settlement and resolving ownership and comprises of the following components:

- 1) Preliminary Investigation Work
- 2) Establishment and co relation of Ground Control Points, i.e. Primary, Secondary and Tertiary control points.
- 3) Satellite database generation, geo-referencing and feature capturing (Vectorization of parcel boundaries)
- 4) Field Validation
- 5) Printing of Maps
- 6) Integration of textual and spatial data
- 7) Notice to land owners as per Tamil Nadu Survey and Boundaries Act, 1923
- 8) Adjudication Process for dispute resolution
- 9) Promulgation of final Re-survey details.

iii) In regard to the above, Item Nos.1 and 2 have to be performed / carried out in coordination / co-function with the departmental staff, whereas Item Nos.6 to 9 have to be executed

by the Departmental Staff and cannot be outsourced, since they are statutory processes. Item Nos.3 to 5 have to be performed under supervision of department staff to ensure that Re-survey is done with reference to existing Cadastral Records;

iv) Since regular survey maintenance work and Re-survey work have to be done simultaneously, it will not be possible to start Re-survey simultaneously in all districts. As people have created new subdivisions and ridges due to partitions, it is highly impractical to complete Re-survey within two years as claimed by the Petitioner. Pursuant to the involvement of property rights of the people in the State, Survey has to be done carefully with precision and village wise process will be taken up in 2 -3 years time in the following manner:

i) Training and Capacity building:

A separate 'Survey Training Institute' has been established in Orathanadu, in Thanjavur District and is engaged in imparting training to the technical staff in adopting newer technologies in survey.

v) It was also stated that Tamil Nadu is one of the pioneers in adopting technology and e-governance in the service of people and there is no reluctance to engage technology. In the first phase, as the lands are valuable in urban areas, the department is using ETS in some Towns for Town Survey since 2006 and the Department has digitized all land records and launched web based patta transfer system for delivering efficient land records and mutation services to citizens; that the Department has provided laptops to VAOs working in 12,614 villages and Surveyors to maintain and update online land records and that the Department has also started GIS work to create maps by superimposing cadastral data on satellite imagery and Pilot work is completed for this Perambalur Taluk;

vi) On behalf of the Fourth Respondent, it was further stated that the Petitioner was accompanied by one Mr.Manikandan of M/s.Gridline Survey, a Service Provider Agency in DGPS/ETS survey presentation on 18.08.2016 and the Petitioner requested the said Manikandan to explain about DGPS/ETS system and technology. The respondents have listened to their presentation and welcomed the suggestions of the Petitioner and it was denied that the Respondents threatened the Service Provider. Thus, it was finally stated that since the Respondents are already in the process of conducting the survey, there is no need for Re-survey and therefore, a suitable direction as deemed fit in the circumstances of the case was sought.

7. It was vehemently contended by the Petitioner, who appeared in-person that even though the required funds for the Survey / Re-survey of the 3 Districts , Krishnagiri, Kanniyakumari and Nilagiri, had been released 3 years ago, complete Re-survey of even one Village out of 878 Villages has

not been finished till date. This has to be viewed in the context of the prescribed time limit of 2 years for the completion of sanctioned works under DILRMP programme. He further contended that the report of CAG in this regard would unfold the factum of the negligence on the part of the Respondents. He also drew the attention of this Court to the following facts to prove the lethargic attitude of the existing organization under the State Revenue Administration to protect and manage the Government lands, as it is their bounden duty to hold and protect under the Public Trust Doctrine as observed by this Hon'ble Bench on numerous occasions in the past.

- (i) The computerization of Revenue records and modern survey/ resurvey of the State had started in the year 1988 under two programmes, namely CLR and SRA & ULR. The State is reported to have utilized only 60% of the sanctioned amount of Rs.36.97 Crores during the period 1988 to 2008 for the above purposes;
- (ii) The above two programmes had got merged into National Land Records Modernization Programme (NLRMP) in the year 2008 and the State could utilize only 46% of the sanctioned amount of Rs.31.61 Crores during the 8 year period from 2008 to 2016.
- (iii) The above NLRMP programme has been renamed as " Digital India Land Records Modernization Programme (DILRMP)" since 01.04.2016 with 100% funding available from Central Government. Even though the above scheme shall be open only upto the year 2021, the State Government is yet to show any urgency or interest in availing funds from the above scheme to its full potential, unlike many other States who are far ahead in seeking and utilizing the above funds.
- (iv) The 4th Respondent had issued a G.O (Ms) No. 733 dated 14.11.2006 ordering Re-survey of the entire State using GPS / ETS equipments in about 7 to 8 years and had also released part of the funds. Surprisingly, even after 11 years, no noticeable progress has been achieved in this regard. The Department of Land Resources, Government of India had directed creation of Project Management Unit (PMU) for the proper implementation of the above program vide D.O. No. 13014/4/4/2007-LRD dated 02.08.2011, which is yet to be effectively operationalized by the State Government;
- (v) Based on the orders of this Hon'ble Court, the Government had issued a G.O.(Ms) No. 540, Revenue [LD6(2)] Department dated 04.12.2014, prescribing a mechanism to address the encroachments on Government lands. This G.O. has also been in a limbo so far and it has not produced any substantial results even after 3 years of its

Notification and in spite of several directions thereafter by this Hon'ble Court as well as by the 3rd Respondent to the District Authorities (Ref: Para No. 3 of the order dated 28.06.2016);

- (vi) Even though re-survey of lands must be done once in every 30 years to avoid claims based on adverse possession, no such surveys have been carried out in Tamilnadu since 1910 i.e., for more than 100 years. This has resulted in the disappearance / damages of survey boundary stones / marks on the grounds / fields with the consequent inability to correctly demarcate and identify the boundaries of land properties.

8. Pointing out the above irregularities of the State, the Petitioner also added that the existing mechanism, said to be working to the satisfaction of the Respondents in protecting Government lands, has been a total failure in every respect, which was also affirmed by this Court on 28.06.2016. The hesitation and opposition by the 4th Respondent to constitute a Special Task Force for the purposes sought by the Petitioner shall be incomprehensible to any reasonable mind. Despite the grant of adequate funds from Government of India under the various centrally sponsored schemes, the Respondent have not shown any interest in effectively performing their duties so as to uphold the Public Trust Doctrine. The Respondents hope to perform the above functions in their typical bureaucratic style without realizing that a project of this magnitude, size and nature shall require people with project management skills of different kind with specialised skills and competence to complete the project within a reasonable time limit.

9. The Petitioner's further stand was that unless and until the above project is handed over for timely execution to a Special Task Force comprising of persons with adequate expertise and experience in project management functions, it shall remain to be a mirage in spite of the availability of 100% funding from Government of India. There is no doubt that everything is available on paper and the present organizational set up and mechanisms under the State Revenue Administration have been in existence for over a quarter century, but the above functions have remained unattended. The very fact that nothing has substantially changed on the ground shall conclusively prove the gross failures of the existing systems, people and mechanisms to protect and manage the Government lands and to perform their duties under the Public Trust Doctrine, which has been enshrined under Article 21 of the Constitution of India. It was submitted by the Petitioner that though this Court has repeatedly insisted upon the need to constitute a Special Task Force for the above purposes, there was continuous reluctant on the part of the Respondent in such constitution for the reasons best known to

them. Under normal circumstances, though the constitution of Special Task Force should be welcomed as an aid in performing the statutory functions, the opposite response of the Respondents is truly intriguing.

10. The Petitioner also pointed out that this Court on several occasions had expressed its dissatisfaction on the failure of the District Level Committees, established in 2001 for the protection of Government lands, including removal of encroachments. It was further pointed out that the neighbouring State of Karnataka, upon realizing the menace of encroachments, immediately constituted a Special Task Force and thereafter, the issue is under proper monitor by the Hon'ble High Court of Karnataka through a Court appointed Committee and similar action is absolutely required in Tamilnadu for removal of large scale encroachments and upkeep of Government lands. It was contended by the Petitioner that the present status of Re-survey work from the DILRMP website shows the dismal performance of the State in achieving even the targets previously committed by the Respondents and necessary working manuals are yet to be prepared for the Re-survey operations, for which, model manuals are already available from the States of Gujarat , Orissa , Kerala , etc;

11. The contention of the Petitioner was that the Respondents are in no way seriously concerned about the need to institute any mechanism / arrangement for the accurate identification, demarcation of boundaries and monitoring / protection of the vacant Government lands, having no survey boundary marks around, as proper inspection was not done per Section 16 and 21 of The Tamilnadu Survey and Boundaries Act, 1923 r/w Rules, 1925. It was contended that the Respondents appear to be in an illusion that maintenance of various revenue records such as 'A' Register, FM sketches, etc., and issuance of Government Orders at regular intervals are sufficient to physically protect and prevent encroachments. The Petitioner has not disputed the correctness of the above records, but the problem is how to physically identify the lands on the basis of such records without any survey boundary marks around. Further contention was that the Respondents do not know that re-surveys and fixation of Survey boundary marks are sine qua non for proper identification and demarcation of the lands;

12. It was argued that without the assistance of professionals, the object could not be achieved for better administration and maintenance of vacant Government lands. According to the Petitioner, the present status of the lands would only show the deficiencies and drawbacks in the present system as well as the ineptness, neglect and negligence on the part of the Authorities in ensuring the protection of government lands till now. Lastly, the Petitioner submitted that unless a

Permanent Special Task Force is constituted in the State of Tamil Nadu with adequate powers and responsibilities exclusively to conduct periodical inspections, field surveys and removals of encroachments from all categories of vacant Government lands, the object of Re-survey cannot be achieved with the existing Committee.

13. Per contra, the Learned Additional Advocate General for R1 to R7 strongly opposed to the relief sought for by the Petitioner in this Writ Petition, stating that 'Re-survey' is being conducted almost in various parts of the State, especially in the extended areas of Municipalities and Corporations. In consequence of introduction of modern survey equipments in re-survey, the fraudulent transaction with the Government lands has been curbed and curtailed. Tamil Nadu has the accurate land records for every bit of land, which was identified with the use of mathematically proven survey methodologies, in addition to surveying the Government lands with the help of the Global Positioning System (GPS) and Electronic Total Station (ETS) so as to measure lands accurately. GPS can measure base lines for high accuracy and it controls points without any line of sight requirement, whereas ETS works on the principle of signal reflection and line of sight must be there between Total Station and Prism reflector. GPS is a more effective tool for establishing control point. However it cannot be used in areas with large tree cover, high rise buildings etc., because of satellite signal interference. Therefore, it was submitted that for surveying of lands in vast open areas, usage of GPS is resorted to and for surveying congested built-up areas with clear line of sight, ETS is effective. In Cadastral Survey, the scale of the map and precision of the instruments greatly influence its accuracy and hence, it was recommended to conduct the re-survey in the State using both DGPS and ETS.

14. It was the contention of the Learned Additional Advocate General that the Re-survey using DGPS and ETS is currently in progress in Agastheeswaram Taluk of Kanniyakumari District, Hosur Taluk of Krishnagiri District and Kothagiri Taluk of the Nilgiris District and also in 7 towns viz., (1) Anagaputhur & Pammal (Kanchipuram Dist.,) (2) Tiruttani (Tiruvallur Dist.,) (3) Vellore (4) Perambalur (5) Kaundampalayam (Coimbatore Dist.,) (6) Periyasemmur (Erode Dist.) and (7) Tiruppur. It was the further contention that though it was proposed to complete the ongoing Re-survey earlier, due to acute shortage of manpower, the expected progress in the work could not be achieved and therefore, it was also proposed to increase the manpower in the coming months in order to complete the work before 30.06.2020. After completing the re-survey and also after the publication of notification under Section-13 of Tamil Nadu Survey & Boundaries Act, 1923, the Survey conducted will become authenticated and the Land Records prepared / updated under the

resurvey will be published online.

15. It was also the contention of the Learned Additional Advocate General that for an easy access of the people at large, the Government had also introduced e-service on land records with the website ID as "http://eservices.tn.gov.in" for extracting / downloading Patta / Chitta, 'A' Register and also for verification of Poramboke land and issuance of manuscript extracts of Land Records was banned in the year 2003. At the threshold, the web-based system was implemented at Perambalur Taluk with effect from 09.11.2014, which stood subsequently extended to other 256 Taluks. It was further contended that since the Re-survey programme already started is at the verge of completion, constitution of another Task Force for this purpose is unwarranted. She also brought to the attention of this Court that data entry of Natham Land Records had already been commenced by way of outsourcing and induct of data entry operators and 98% of 1.41 Crore Natham records have been computerized so far;

16. Mr.G.Karthikeyan, the learned Assistant Solicitor General of India for R8 has stated that as per Entry 18 and Entry 45 in List-II of Seventh Schedule to the Constitution, the maintenance and management of lands falls within the jurisdiction of the States and removal of encroachments from all categories of vacant Government lands and proper utilization of such properties are the sole responsibilities of the State Governments. It was brought to our notice that the National Land records Modernization Programme has been revamped under the Digital India Initiative and converted as Central Sector scheme from 01.04.2016 with 100% funding from the Centre. He has also stated that as per the policy decision in December, 2016, it was decided to conduct survey / re-survey operations from DILRMP funds only where the records of rights or field book or map are not available and the conduct of survey was not extended to all lands, where records are very much available. As on 31.03.2018, Central Government has released Rs.32.11 Crores to the State Government of Tamil Nadu for various activities under DILRMP in 32 Districts and further release of the fund to the State of Tamil Nadu will be considered by the Central Government as per norms and schematic design of the programme in the current year, once Expenditure Finance Committee approves it.

17. Heard the Petitioner-in-Person, the Learned Additional Advocate General appearing for R1 to R7 and the Learned Assistant Solicitor General for R8.

18. Though this Writ Petition has been filed, seeking for constitution of a Special Task Force to 'conduct periodical inspections', 'Field surveys' and to remove 'Encroachments' from all categories of vacant Government lands situated within the Revenue Districts of Kancheepuram and Tiruvallur, in view of the

fact that this Petition is in the nature of Public Interest Litigation, whatever order passed hereunder is applicable to the entire State of Tamil Nadu.

19. According to the Petitioner, in terms of the decision of the Hon'ble Supreme Court in Mr.Kamalnath vs. M.C.Mehta (cited supra), the Government is holding its lands only in the capacity of Trustees of the Public and it is their bounden duty to protect, preserve and utilize such lands for the benefit of public at large, who are real beneficiaries of the Trust. It is seen that pursuant to the Interim Orders of this Court, the Petitioner had submitted a Power-Point presentation to the respondents on 18.08.2016 with regard to need of having a Task Force for survey, in which, reportedly several Officials participated. However, no time limit was fixed for completion of the work of survey / re-survey and though initially four districts, out of 32 districts, were identified to carry out such work, till now no work has been started. According to the Petitioner, the Government has to formulate an effective and time bound action plan to protect / reclassify / preserve / dispose such lands to derive maximum benefits to the public at large.

20. The Petitioner stated that even though the Revenue Department is mainly responsible for the regular inspections and recording of the nature of physical possession, including removal of encroachments through the Village and Taluk Level Officers, due to their lethargic attitude and collusion with encroachers, no such inspections are being carried out in an effective way, as a result of which, most of such lands are either in the possession and enjoyment of encroachers or not traceable on account of absence of survey marks. It was alleged by the petitioner that but for the help of powerful local politicians and Government Staff, the illegal grabbing of Government lands are not at all possible.

21. This reminds of an incident that when a Politician from our country went to Singapore, he was amazed to see the cleanliness being maintained in the Railway Station of Singapore and asked the Singapore Politician as to the secret in keeping the area so clean. The Singapore Politician replied that all Politicians and the People of Singapore used to think that Public Properties are their own properties and see that they are all maintained properly with utmost clean and neatness. Upon hearing such reply, our Politician said that we also think that the Public properties are ours and therefore, we either acquire them or encroach upon them or taken them home for our own use. On hearing our Politician's reply, the Singapore Politician fainted.

22. Though it was an incident, such things are seemingly

happening in our Country, especially in the State of Tamil Nadu. Rule 39 of Revenue Standing Order 15 specifically states that the occupation, without formal application, of poramboke or reserved land should be reported monthly by Village Administrative Officers to the Tahsildars in the memorandum in Form B in Appendix VIII in duplicate, but in reality, such reports under Form B are not forwarded to Tahsildars. It is true that the Government has formed several Committees for recovery / encroachment of Government land, such Committees did not bring any fruitful results, as the existing mechanism is not helpful to bring about a change in the society, primarily on account of the inaction on the part of the Officials. "It is better to have an enemy who honestly says that I hate you than to have a friend, who is putting you down secretly." Here, friend refers to the Corrupt Officials, who are hand in glove with the local Politicians, permit Government lands to be encroached upon, thereby putting the public down secretly. Our country's brave soldiers are fighting against foreign terrorists at the border in order to protect our 'Nation' and it is the bounden duty of the Government to take stringent action against Indian terrorists (Corrupt Officials) by way of suitable amendment in the service jurisprudence. Though no Courts can legislate or amend any Act, suggestion for amendment of the Act can be extended to suit the present context and to make the Law simpler, as the Hon'ble Apex Court in the case of Krishna District Co-operative Marketing Society Limited vs. N.V.Purnachandra Rao, (1987) 4 SCC 99, had suggested for amendment of the provisions of the Industrial Disputes Act and the relevant paragraph is extracted hereunder:

"11. We may incidentally observe that the Central Act itself should be suitably amended making it possible to an individual workman to seek redress in an appropriate forum regarding illegal termination of service which may take the form of dismissal, discharge, retrenchment etc. or modification of punishment imposed in a domestic enquiry. An amendment of the Central Act introducing such provisions will make the law simpler and also will reduce the delay in the adjudication of industrial disputes. Many learned authors of books on industrial law have also been urging for such an amendment. The State Act in the instant case has to some extent met the above demand by enacting section 41 providing for a machinery for settling disputes arising out of termination of service which can be resorted to by an individual work- man. In this connection we have one more suggestion to make. The nation remembers with gratitude the services rendered by the former Labour Appellate Tribunal which was manned by some of our eminent Judges by evolving great legal principles in the field of labour law, in particular with regard to

domestic enquiry, bonus, gratuity, fair wages, industrial adjudication etc. The Industrial Disputes (Appellate Tribunal) Act, 1950 which provided for an all-India appellate body with powers to hear appeals against the orders and awards of Industrial Tribunals and Labour Courts in India was repealed in haste. If it had continued by now the labour jurisprudence would have developed perhaps on much more satisfactory lines than what it is today. There is a great need today to revive and to bring into existence an all-India Labour Appellate Tribunal with powers to hear appeals against the decisions of all Labour Courts, Industrial Tribunals and even of authorities constituted under several labour laws enacted by the States so that a body of uniform and sound principles of Labour law may be evolved for the benefit of both industry and labour throughout India. Such an appellate authority can become a very efficient body on account of specialisation. There is a demand for the revival of such an appellate body even from some workers' organisations. This suggestion is worth considering. All this we are saying because we sincerely feel that the Central Act passed forty years ago needs a second look and requires a comprehensive amendment."

23. In September, 2009, the Government of Karnataka had constituted a Task Force for Recovery and Protection of Public Lands and its Chairman had submitted a report to the Government, specifically stating that the identification and removal of encroachment of public lands is a mammoth task, which requires a commitment of Government and all its Officers, especially by the Departments of Forest and Revenue for obtaining a worthwhile result. The report further stated that 'Greed and Connivance' puts the total Government and Public lands encroached upon and it was painfully noted in the report that unfortunately, the Task Force had to work with the bureaucratic machinery, which was in the first place responsible for allowing such encroachments.

24. It is highly melancholic that no Government, which comes to Power realises the extent of rot and corruption that has set in the system of Revenue Department, Corporations, Municipalities, Electricity and Water Boards, etc., and even though all these Departments must collectively function for the benefit of public, now-a-days, most of the Officials are working for themselves and for their own benefits. To be more precise, the act of such Officials is like that of the fence which, instead of safeguarding the crops as a Sentinel, started swallowing crops and unless such anti-social elements (Corrupt Officials) are dealt with severely, there is every likelihood of law abiding citizens losing faith in the Government and also in the processual justice delivery system. Such Officials are

nothing, but traitors, betraying their own country and its Subject.

25. It is pertinent to note that the First Bench of this Court (S.K.Kaul,C.J., and R.Mahadevan,J.) in Contempt Petition No.1769 of 2015 and Contempt Petition No.2166 of 2015 (Suo motu), while dealing with a matter pertaining to demolition of the violated portions of a building and decimation of the unauthorised constructions, held as follows:

''4. We have also perused the report of the Commissioner, who is present in Court. We have impressed upon him the importance of ensuring that there is atleast no continuing unauthorised construction by issuing stop work notices immediately when such unauthorised construction is detected rather than waiting for comparison of the plans. We have also emphasised the importance of:

(a) Checking the buildings from the basement, ground floor onwards, so that the set backs are adhered to;

(b) Ensure that the on-going construction complies with the norms;

(c) The delinquent officers are brought to book not by mere censure, stoppage of increment, but by more severe consequences like compulsory retirement and dismissal from service. We say so, as despite, mammoth amount of unauthorised construction, we are informed that not a single person has suffered the punishment of dismissal from service or even compulsory retirement atleast for the last five years.

(d) Not to let any unnecessary interference with his work by the persons, who have nothing to do with his job and that he should be able to do his task without fear or favour, for which necessary Court protection is available."

26. It is to be noted that the Officials, who are in-charge of sanctioning of plan, registration of documents, removal of encroachments, etc. including IAS Officers should be watched periodically and in case of any misdemeanor, they should be shown the doors.

27. Of late, several States started adopting an Aerial Survey of Revenue Land in order to curtail illegal crabbing of Government lands and as per a publication in The Times of India dated 28.05.2013, Bihar Government had launched an aerial survey of revenue land in the State with an estimated cost of Rs.579 Crores and since the existing land records therein are maintained on paper supported by cloth in a poorly manner, the State has now introduced a digital geo-positioning system fixed in the helicopters to photograph the land and after aerial survey, revised land maps would be prepared by comparing the findings. It was reported by the Principal Secretary that the findings of the aerial survey would be corroborated during the field survey for deciding ownership and boundaries of a land or property. From the status report filed by the Petitioner, it is evident that no survey has been conducted in many parts of this State and as per the news report, even our neighbouring State Telangana had conducted a comprehensive survey nearly after eight decades, with the fund allotted by the Central Government.

28. This Court is in complete agreement with the contention raised by the Petitioner, as the existing systems, controls and land administration machinery are awfully inadequate and inefficient to perform their statutory duties in accordance with law. The very same view had been expressed by the Hon'ble First Bench of this Court, while hearing this Writ Petition at the nascent stage and passing an interim order dated 28.06.2016, by stating as follows:

"3. We do believe that this aspect can brook no further delay. The Centralised Task Force set up by the State Government as per the Government Order dated 07.03.2001 has obviously not achieved its objective, as it is no one's case that by any stretch of imagination, even in the last 15 years since then, there has been prevention of further encroachment. This very issue of Centralised Task Force and its operation would have to be re-looked into by the State Government.

4. We are of the view that these are all matters of Public Trust, which the State Government must now promptly look into, otherwise there will be little option but for direct intervention by Courts to protect Government lands."

29. As could be seen from the 'Records', though funds were received in August, 2015, out of Rs.10.14 Crores allotted, only a meager portion of the amount, namely, Rs.31,000/- (0.03%) was utilized for the purpose of survey and with regard to the Land Records Management Centre, only 4.6% of the amount was made use of. Therefore, non receipt of funds from the Central

Government alone is not a criteria for not conducting the survey / re-survey, but the dormant attitude of the Officials working in the Revenue Department and other Departments is also one of the reasons for not achieving the expected goal. For example, recently the Government has banned the usage of plastic bags, but on account of inaction on the part of the Officials, again street vendors and shops owners started using carry bags, etc., thereby made the Government Order a meaningless one, despite the Court being approved it.

30. It could be seen that owing to the poor administration, the land-grabbers carry on their illegal activities on the basis of the bogus documents approved by the Officials, resulting in huge loss to the public and it is the primary responsible of the Government to take action against them. But, it is a shame that Government have failed to use its power to curb those criminals, instead joined hands with land grabbing mafias for self improvement. There was a song in one of the movies of M.G.Ramachandran, namely, Thirudatheey, released in the year 1961, which was composed by Pattukkottai Kalyanasundaram and sung by famous and illustrious playback singer late T.M.Soundararajan, that

திட்டம் போட்டு திருடுற கூட்டம் திருடி கொண்டே இருக்குது
அதை சட்டம் போட்டு தடுக்குற கூட்டம்
தடுத்து கொண்டே இருக்குது.
திருடராய் பார்த்து திருந்தா விட்டால்
திருட்டை ஒழிக்க முடியாது.

The substance of the above song is that a set of mob has always been stealing and the other group has been preventing the stealthy act by enforcement of the Act and unless the thief regrets for his act and mend himself, no one can prevent 'Theft'.

31. It is pertinent to mention that one lives in an era of 'Kaliyuga', wherein the undesirable elements practice only bad things, like encroachment with the assistance and cooperation of people in power and in co-ordination with the persons working in the concerned Departments. Because of the good people remaining as being silent mute spectators, the undesirable elements take an upper hand and make an earnest endeavour to cause havoc in the Society. The unwanted persons, who are in deep slumber are to be given a wakeup clarion call and they must be caught so as to ensure that the concept of Good 'governance prevails'. At one point of time from each family an individual was sent to serve in the Army and now the present scenario has changed, where there is a deviant/delinquent in a family. It cannot be gainsaid that an unemployment problem is undoubtedly a serious problem in our Country and because of this, valuable 'Human Resources' are wasted to a large extent and if the said problem is resolved, it will certainly help the 'Developmental's aspect of our Country. However, no serious / tangible step has been taken by the powers that be to solve the problem, although our Country is termed as

a 'Developing' one.

32. It was pointed out by the Petitioner that though the tender processes are said to have been completed as early as on 10.11.2016 for the GPS survey of some of the Districts, no survey of even one village has been completed as on date. Even though the decision to conduct re-survey of the entire State using GPS was notified vide G.O.Ms.No.733 dated 14.11.2006, no noticeable accomplishment has been seen in the field. Therefore, it was argued that on several occasions, this Court had repeatedly insisted upon the need to constitute a Special Task Force, but on account of evasive response, the said constitution is being postponed endlessly. Thus, it was concluded by the Petitioner that a fruitful and collective results can be achieved only by way of constitution of a Special Task Force, as ordered by the Hon'ble Karnataka High Court in W.P.No.15500 of 2013 dated 19.12.2014.

33. Though the Revenue Secretary and the Commissioner of Land Administration and the Commissioner of Survey, who were present before the Hon'ble First Bench of this Court on 10.11.2016, had stated that for completion of tender process for the entire State would take considerable time, even after completion of nearly two and half years, they are not able to show any considerable progress in the work, except formation of certain Committees. Therefore, this Court is of the view that unless a Permanent Special Task Force with adequate powers is constituted, like that of Karnataka, it will be next to impossible to prevent the illegal grabbing of Government lands, as the assurance given by the Officials every now and then is only on papers and is ostensibly written on water. Hence, with a view to preserve the vacant Government lands, this Court has no other option, but to appoint a Permanent Special Task Force with the following directions:

i) The Government is directed to constitute a Permanent Special Task Force (in short 'the STF') duly headed by an efficient, devoted and honest Official, not below the rank of Additional Chief Secretary, as Chairman of the STF;

ii) The Revenue Secretary, the Secretary to Highways & Minor Ports Department, the Secretary to Public Works & Water Resources Department, the Secretary to Animal Husbandry & Fisheries Department, the Commissioner of Land Administration and the Commissioner of Survey, the Chairman, Electricity Board, The Managing Director, TWAD Board, District Collectors, Police Officials in the cadre of Commissioner / Superintendent of Police, Tahsildars, Surveyors, Village Administrative Officers and an Officer from the respective Departments, like Revenue, Municipal Administration, Corporations, Electricity Board, TWAD Board, etc., in each District of Tamil Nadu shall be members of the STF, exclusively for periodical inspections, field survey and removal of encroachments. The Government shall pass necessary orders in respect of constitution of the STF within a period of three months from the date of receipt of a copy of

this order;

iii) On such constitution, the Chairman of the STF shall make working arrangement of the existing staff for this purpose and provide adequate staff support to the concerned Officials to achieve this herculean task of removal of encroachment. The Chairman shall convene a meeting with other Members once in a month to review the action taken by the Members in their respective Districts in removal of encroachments;

iv) The STF shall conduct periodical inspections, field survey and create a boundary marks in respect of vacant Government lands as per Sections 16 and 21 of The Tamilnadu Survey and Boundaries Act, 1923 and other relevant provisions of the Act. The Government shall create QR / Bar Code and update all the details in the Code so that it will be helpful to the Public to scan those particulars for their reference. The said exercise can also be implemented in respect of private lands also, so that by click of a button, necessary information such as, name of the person, who granted the planning person, sketch, entire layout, etc., for easy access to the Public.

v) In case of any encroachments on the Government lands, the STF shall immediately remove all encroachments without showing any indulgence / sympathy to them. In respect of cases where notices have already been served, the STF shall ensure that the enquiry is held as per Rules by the concerned Officer without any delay and the eviction orders are issued and served on the encroachers and if there is any protest by the encroachers even after service of notice of eviction, they should be dealt with iron hands with the assistance of Police and FIR can be registered against them by citing this order for preventing the Government Officials from discharging their duties apart from other provisions that might be required in the facts and circumstances of the case;

vi) The STF must ensure that there is no further encroachment and illegal constructions made on the very same lands by way of periodical inspections;

vii) The STF shall bear in mind all the recommendations of the Comptroller and Auditor General of India made in Report Nos.4 and 8 of 2017 and also follow the "Guidelines on Urban Drainage" issued by the Indian Roads Congress;

viii) The Chairman is given power to verify the previous orders passed by the then Secretaries and also to call for records related to the particular period for verification and in the event of any lapses / dereliction found on their parts, appropriate instructions / action may be given / taken against them by the Chairman for dismissal from their services and even to strip off the post of IAS. When the punishment is strict, then only the Officials will be more serious in discharging their official work out of fear;

ix) The Government shall fix the responsibility on the Chairman of the STF and his / her team, who are entrusted with the work of inspection, survey and removal of encroachments and the Chairman must ensure the continuance of the eviction process as per the schedule and any negligence / lethargic attitude noticed shall be viewed seriously. The Government is entitled to take suitable disciplinary action against the members of the STF, including the Chairman, in case of dereliction of duties and the Government should review their works prior to three months of the retirement of each Official in the team and ensure that they have discharged their works satisfactorily, failing which, the Officials may be placed under suspension and even dismissed from service for their misconduct, dereliction of duty, showing no devotion to work, lack of integrity so as to deprive their entire terminal benefits;

x) The Chairman of the STF shall report the progress to the Chief Secretary every month, who, in turn is directed to forward a copy of the same with his / her comment to the Registrar General of this Court immediately on receipt of the same. It is open to the Petitioner to obtain a copy of the report from the Registry of this Court for follow-up;

xi) As held by this Court in Contempt Petition No.1087 of 2017 and Writ Petition No.24705 of 2017 dated 18.03.2019, the Government should think of amending Acts, such as the Tamil Nadu Town and Country Planning Act, 1971, District Municipalities Act and other Enactments that deal with the removal of illegal constructions and encroachments, to the effect that wherever buildings are constructed in violation of the plan, the charges, like electricity, property and water tax, etc., should be collected not less than 5 times (can be extended upto 10 times) at the rate applicable to commercial buildings even to residential houses, so that monies collected in that way could be utilized by the Government and the Government can avoid financial emergency. It is made clear that the enhancement of five times charge has to be borne by the person, who has encroached the area and in case tenants reside in the said area, the enhanced charge has to be paid by them and get it deducted four time charge from the monthly rent. If it is established that the owner of the property has not encroached the land, the amount recovered from him/her has to be refunded immediately;

xii) It is made clear that this Court cannot issue directions separately to each of the Department by impleading them as parties to the proceedings and therefore, this Order shall be quoted / made reference to the concerned Department, who are also responsible for removal of encroachments and illegal constructions;

xiii) Of course, it is true that Courts extend a helping hand to the violators for non-adherence of the procedures as adumbrated under the relevant provisions, by the Officers and the Courts must be slow in granting relief, much less interim relief in cases where violators approach the Court for relief, as even a disposal of representation will give rise to another round of litigation. Recently, the Hon'ble Supreme Court in Government of India and another vs. P.Venkatesh [Civil Appeal No.2425 of 2019 decided on 01.03.2019, has made a critical observation that the term 'dispose of the representation' mantra is increasingly permeating the judicial process in the High Courts and the Tribunals, but actually, they do no service to the cause of justice;

xiv) Whenever the encroachers approach the Court against eviction, the Chairman of the STF shall bring this order to the notice of the Court through Government Pleaders / Advocates so as to enable the Court not to grant any relief, much less an interim relief to the perpetrators / violators;

xv) The Chairman of the STF shall assign a separate helpline / Phone Numbers District-wise to enable the public to contact them in case of any illegal encroachment, etc., and in the event of non-picking of phone calls, the Officer, who is in-charge of the office on that day shall be responsible for not answering the call and necessary explanation shall be called for from the concerned Official in case of any complaint from public with evidence, as most of such helplines numbers in various Departments are only deadlines, created for name sake;

xvi) Since the above directions are issued in the case relating to PIL, the non-compliance of any of the above conditions shall be brought to the attention of this Court by any third party, apart from the petitioner for this Court to take (suo motu) Contempt against violators and punish them with imprisonment, if there are wilful and deliberate disobedience of the order of this Court;

34. This Court places on record its profound appreciation on the yeoman services rendered by Mr.V.B.R.Menon / Petitioner-in-Person in the larger public interest. From the voluminous case records produced by the Petitioner-in-Person, it could easily be understood that he has taken much pain in the interest of public at large. Therefore, the Fourth Respondent / Revenue Secretary is directed to pay a sum of of Rs.50,000/- (Rupees Fifty Thousand only) to the Petitioner within a period of 90 days from today in appreciation of his laudable paper work. This amount will not be construed as punitive costs fastened on the Government, represented by the Fourth Respondent / Revenue Secretary and in order to encourage litigants like that of the Petitioner having concern on the society, the amount is ordered to be paid and not otherwise, more particularly the paper work

done in the matter. It is also pertinent to mention here that but for the assistance of the learned Additional Advocate General, who was duly assisted by the learned Government Advocate, this Court would not have given quietus to the matter, as both of them rallied around the Officials and obtained instructions to apprise this Court of the exact position and therefore, this Court also places on record its appreciation for their devotedness in work.

35. Last but not the least, this Court wants to emphasize the STF to bear in mind the various orders passed by this Court, while dealing with the issue of illegal constructions and encroachments.

a) This Court in several orders have directed that the complainant must be heard in all the Appeals or proceedings, including Sections 79, 80-A, 113-C, etc., under 1971 Act or Land Encroachment Act or under any other legislation that deals with removal of encroachment and illegal construction in violation of plan or without plan, as this Court has observed in the order dated 03.01.2018 in W.P.No.22058 of 2017 as follows:

"Land encroachments are like Cancer. It slowly eats the lung space of the land and definitely, there will be no breathing space for anyone, much less the Earth, to survive in the Orbit."

b) Stating that it is only the complainant, who can bring the violation to the Authorities so as to enable the Authorities concerned to act with 'Honesty' and 'Integrity', this Court by order dated 18.12.2017 passed in B.Ramesh vs. The Secretary to Government, Housing and Urban Development Department, Secretariat, Chennai-600 009 and another [W.P.Nos.21239, 28140 to 28142, 35441 and 35442 of 2005 and 10364 of 2006] observed as under:

"6. This Court makes it further clear that the regularisation proceedings shall be conducted by the respondents after hearing necessary parties who are likely to be affected and if there are complainants, they should also be heard. Whenever parties appear, the applicant(s) as well as the complainant(s) shall be heard and the conduct of the proceedings should be written down by the officer concerned who is hearing the matter, and he shall obtain signatures in the proceedings after recording the submissions if any made. A copy of the proceedings shall be furnished immediately thereafter to the parties concerned to avoid unnecessary allegation against the officials that the records have been manipulated, and the authority concerned shall seek for written submissions from the petitioner(s)/applicant(s)/

complainant(s) within a time frame and thereafter, the authority shall pass appropriate orders in accordance with law. This Court makes it clear that the authority shall not advise any of the parties with regard to the issue that is being heard and that if there are no set-backs, and if there is violation with regard to the construction, the request of the applicants/petitioners has got to be rejected. It is further made clear that the set-backs shall not be regularised. It is open for the authorities concerned to go and inspect the sites in question and also take photographs and videographs in order to safeguard their interest. It is also open for the parties to submit the photographs and videographs in order to substantiate their respective stand.

c) A Hon'ble Division Bench of this Court in yet another case J.Julie Sangetta and another vs. Member Secretary, Chennai Metropolitan Development Authority, Egmore, Chennai-600008 and others [W.P.Nos.38432 of 2015, 28511 of 2015, 37822 of 2015, 23766 of 2013 and 33481 of 2013] dated 07.09.2016, had directed the authority concerned to call for details from the violators by issuing appropriate notice, if it is found that there are encroachments on road and the relevant portion of the said judgment is extracted as here-under:

"12. Whenever it is brought to notice that there is land encroachment on the roads or in any other place or violation of construction, it is open to the authorities concerned to call for the following details from the violator by issuing appropriate notice:

(a) Registered Deed based on which the property has devolved upon the person

(b) Extent of square feet mentioned in the Schedule property

(c) Width of the road

(d) Actual constructed area

(e) Approved plan

(f) Whether set back space has been provided as per the Plan/Rules

13. It is the bounden duty of the person, who receives the notice to furnish all the details called for, failing which, it has to be presumed that there are violations and it is open to the authorities to act as per law. Wherever there are encroachments on road, road width has got to be restored. If there is no Building Plan, deviations if any, have got to be

removed by the petitioner. If not, the authorities are entitled to remove the same in accordance with law, recovering the demolition costs from the petitioner.

d) In Mehraj Begum vs. The Government of Tamil Nadu, rep. By its Secretary to the Government, Housing and Urban Development Department, Fort St. George, Chennai and others [W.P.No.27499 of 2018] dated 16.10.2018, the Hon'ble Division Bench of this Court has issued following directions, regarding the stringent measures to be taken for removal of encroachment, which read as under:

(a) Respondents are directed to de-seal the building constructed by the Petitioner for the purpose of rectifying the defects and the building shall not be occupied for any other purpose, much less residential purpose.

(b) If the respondents are unable to demolish the building, then it is left open to them to demolish / remove all the doors, windows, glasses, toilet seats and bidets, kitchen cooking platform, waterline pipes running into domicile from water tank or sump or any other mode to wash basins, kitchen and rest rooms, including the tap / shower.

(c) In the event of the building being found locked or closed by the occupants, the respondents shall drill the roof of the building and make a big hole so that the building cannot be occupied any more.

(d) Respondents shall ensure that proper set back is maintained in the building in question and also ensure as to whether the building in question has encroached the Road.

(e) If the violated portions are not rectified, Respondents are directed to demolish the same.

(f) Till the building is brought in accordance with the Sanctioned Plan, there shall not be electricity supply to the building in question. Though this Court is entitled to disconnect water supply to the building in question, taking note of the fact that the neighbours of the Petitioner will suffer, water supply is not disconnected.

(g) The Appellate Authority shall conduct the proceedings once in 15 days and ensure that the building in question is brought in accordance with the sanctioned Plan within six months.

(h) If the Officials concerned do not

adhere to the procedures mentioned supra, the Government shall post the erring Official in a non-sensitive post. (i) Wherever Appeals are pending before the authorities concerned as regards buildings constructed in violation of the Sanctioned Plan, there shall be an interim order by the Appellate Authority and there shall be disconnection of electricity supply to the said violated portion, if the building is not brought as per the Sanctioned Plan within the time limit.

(j) whenever an appeal or any petition is filed under the Tamil Nadu Town and Country Planning Act, 1971, the said application should reflect the very same number and in case of appeal, the original number should also find place. That apart, the owner of the house / flat shall exhibit in a notice board outside the premises that appeal is pending before the authority, by giving necessary details/numbers, like original application, appeal, writ petition, if any and the authorities concerned shall also forward a copy of the same to the Metro Water and Tamil Nadu Electricity Board for appropriate action.

(k) The 1st Respondent/Secretary to the Government of Tamil Nadu, Housing and Urban Development Department and the 5th Respondent/Commissioner, Corporation of Chennai, Chennai are directed to furnish the following particulars to this Court on or before 18.12.2018:

- (i) Number of appeals pending before the authorities;
- (ii) Number of cases, wherein directions have been issued by this Court.

36. Before parting with this case, this Court is of the earnest opinion that unless there is a stay of the proceedings by the Court, quoting any pendency of the matter, the Officials of the Municipality / Corporation / CMDA and Government Officials cannot close the complaints or appeals, etc., on the ground of pendency of Writ Petition or Writ Appeal. If they do so, it would amount to dereliction of duty and they could be proceeded with departmentally so as to bring them within the ambit of not discharging their duties with integrity and devotion to duties, which would disentitle their further promotion and those Officials shall be removed from the said post and posted in a non-sensitive post, if any complaint is made that they are not discharging their duties to the fullest satisfaction, apart from endorsing the same in the Service

Register during their service. In case it is established that the Officials have cooperated with the Encroachers, the same would attract moral turpitude so as to deprive their terminal benefits.

37. It is seen that not even a single case has been produced after the orders of this Court stated hereinabove in Paragraph No.25 (c) to show that action has been taken against erring Officials for their inaction to remove unauthorised constructions and encroachment, even though our resources are allowed to be siphoned off by the Violators and the Government Officials and without the active role of the Officials, there will not be any encroachment and therefore, they must be punished first, as the Hon'ble Supreme Court, in catena of cases held that the Encroachers necessarily will have to be dealt with iron hands. As a matter of fact, in this State only, the Encroachers are better placed, as they are given an alternate place free of cost by the Government on 'Buildings' constructed by the 'Slum Clearance Board'.

With the aforesaid observations and directions, the Writ Petition is disposed of. There shall be no order as to costs.

s/d-
Assistant Registrar (CS VI)

True Copy

Sub-Assistant Registrar

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To:

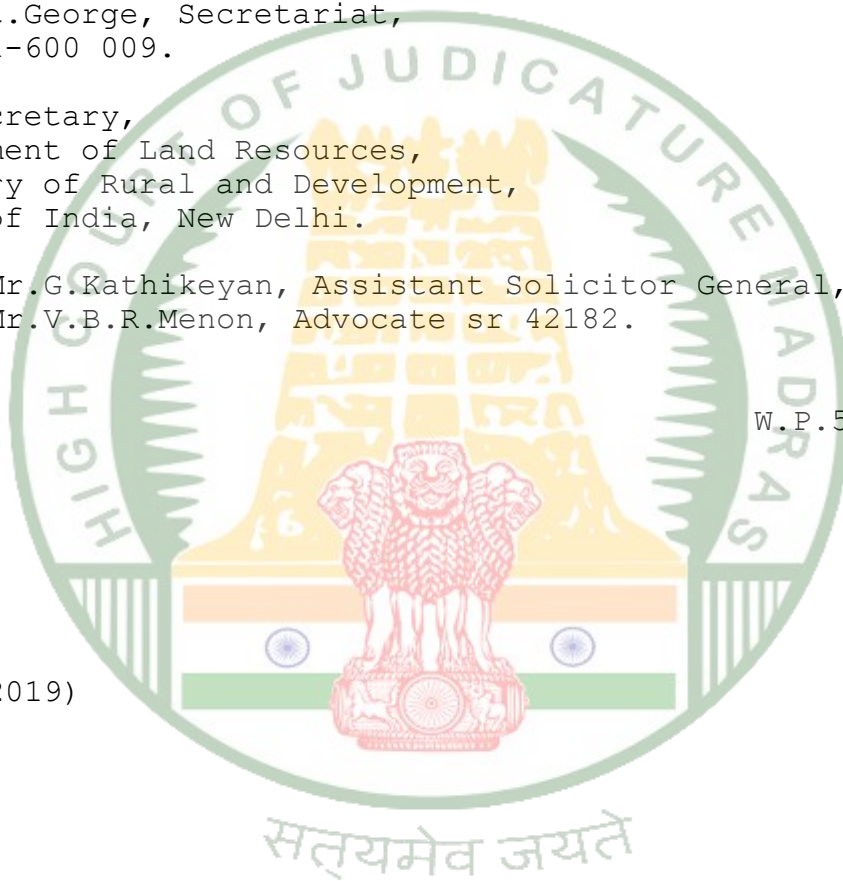
1. The District Collector,
Collectorate,
Kancheepuram-631 501.
2. The District Collector,
Collectorate,
NH205, Jaya Nagar,
Thiruvallur-602 001.
3. The Special Commissioner &
Commissioner of Land Administration,
Ezhilagam, Chepauk,
Chennai-600 005.
4. The Secretary to Government of Tamil Nadu,
Revenue Department,
Fort St.George, Secretariat,
Chennai-600 009.

5. The Secretary to Government of Tamil Nadu,
Highways & Minor Ports Department,
Fort St.George, Secretariat,
Chennai-600 009.
6. The Secretary to Government of Tamil Nadu,
Public Works & Water Resources Department,
Fort St.George, Secretariat,
Chennai-600 009.
7. The Secretary to Government of Tamil Nadu,
Animal Husbandry & Fisheries Department,
Fort St.George, Secretariat,
Chennai-600 009.
8. The Secretary,
Department of Land Resources,
Ministry of Rural and Development,
Union of India, New Delhi.

+1 CC to Mr.G.Kathikeyan, Assistant Solicitor General, sr 42092
+1 CC to Mr.V.B.R.Menon, Advocate sr 42182.

W.P.5076 of 2016

PMS (CO)
SP (06/05/2019)



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