

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 04.11.2020

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

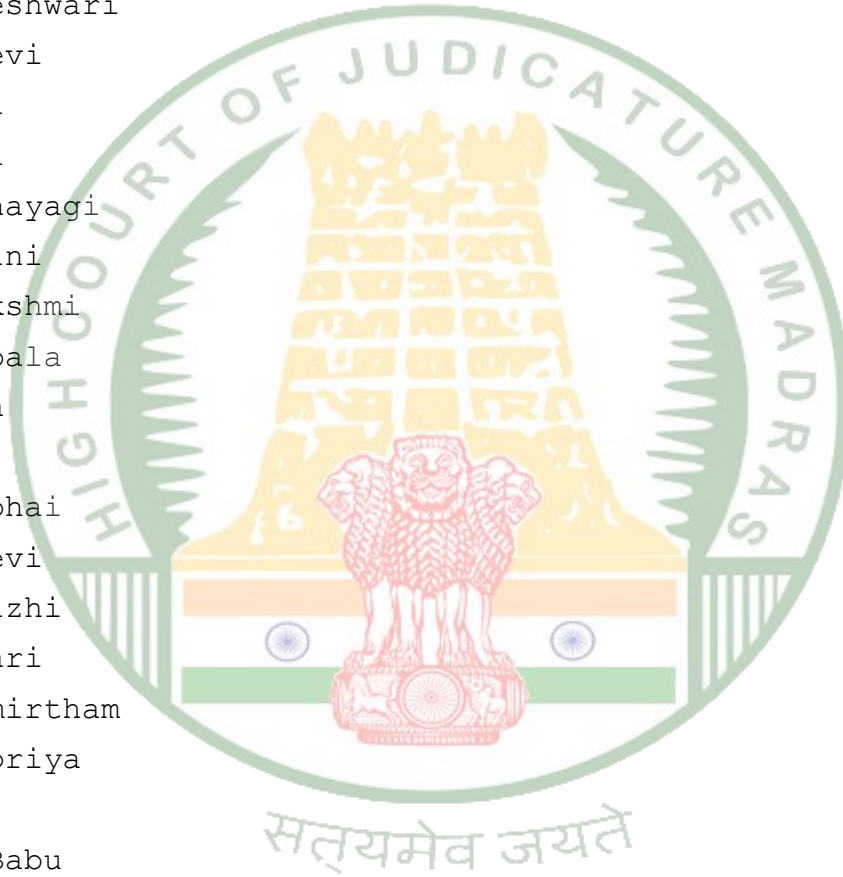
WP.No.15117 of 2020

- 1.Dhamodharan
- 2.Jayalakshmi
- 3.Vittabhai
- 4.Thilagavathi
- 5.Sairam
- 6.Anuradha
- 7.Shanthi
- 8.Aadhilakshi
- 9.Balaji
- 10.Govindhammal
- 11.John Solomon
- 12.Padmavathy
- 13.Parthasarathy
- 14.Perumal
- 15.Selvi
- 16.Subathra
- 17.Sumathi
- 18.Vijayalakshmi
- 19.Karunakaran
- 20.Malligai
- 21.Megavathi
- 22.Ponammal
- 23.Rajesh
- 24.Saraswathi
- 25.Shanthi



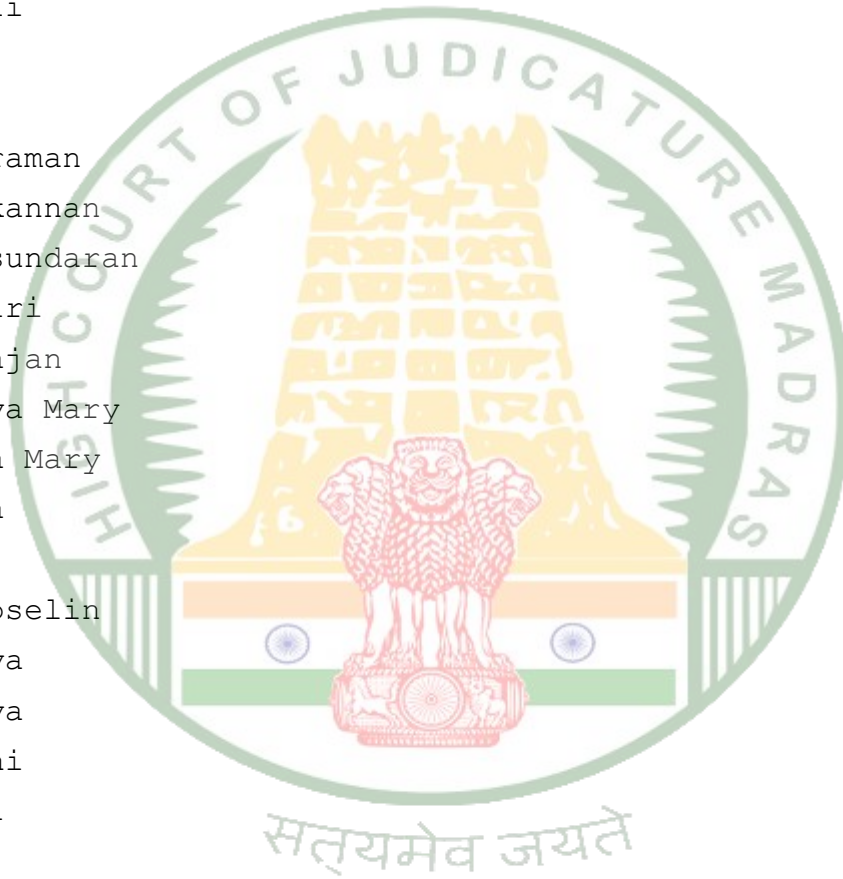
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26.Srinivasan
27.Mani
28.Gnanambikkai
29.Janakiraman
30.Kumar
31.Carolin Henry
32.Catherine Berlin
33.Amul
34.Bhuvaneshwari
35.Durgadevi
36.Lakshmi
37.Lakshmi
38.Periyanayagi
39.Subashini
40.Gajalakshmi
41.Vijayabala
42.Anushya
43.Chitra
44.Geethabhai
45.Leeladevi
46.Malarvizhi
47.Rajeswari
48.Rama Amirtham
49.Sathyapriya
50.Balaji
51.Durai Babu
52.Grace
53.Jayanthi
54.Joshuwa
55.M.S.Saleem
56.Mathews
57.Meena
58.Muthulakshmi
59.Poongothai



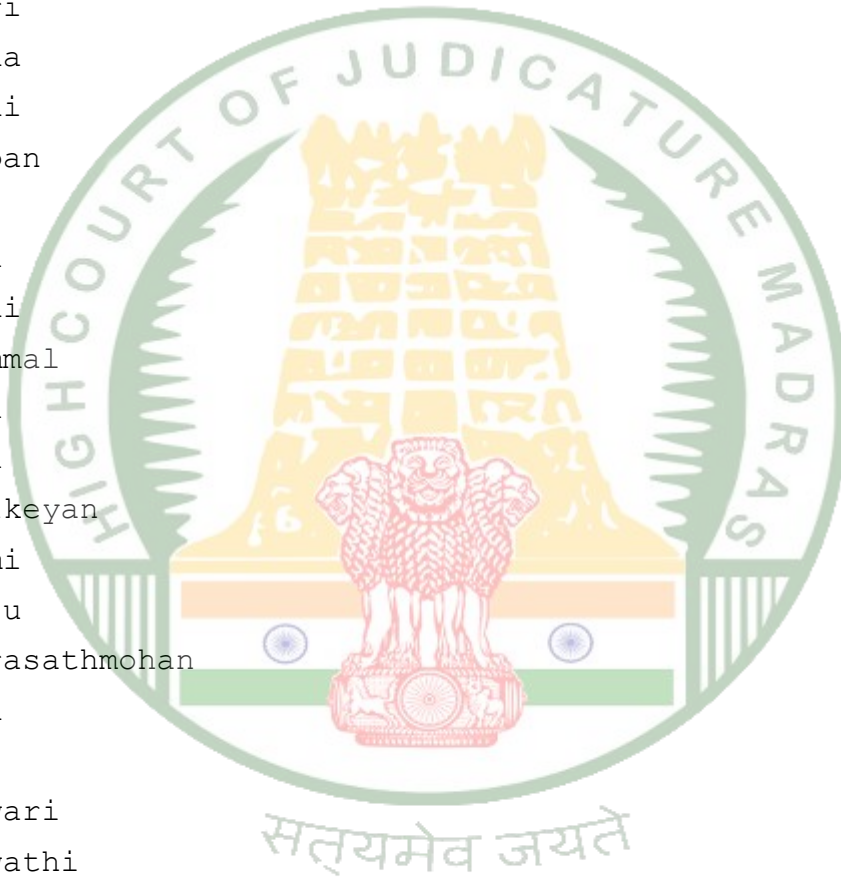
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60.Poorani
61.Ramalu
62.Saraswathi
63.Sasikala
64.Vasantha
65.Jeyalakshmi
66.Saratha
67.Thulasi
68.Annakili
69.Devaki
70.Babu
71.Janakiraman
72.Kamalakannan
73.Mohanasundaran
74.Savithiri
75.Sundarajan
76.Aarokiya Mary
77.Fathima Mary
78.Malliga
79.Rathi
80.John Roselin
81.M.Vijaya
82.U.Vijaya
83.Bharathi
84.Pazhani
85.Raju
86.A.Nagalakshmi
87.Aadhiyammal
88.Lakshmi
89.Thiriupuraam
90.Devagi
91.Ganesh
92.Govindaraj
93.Karthik



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94.Banu
95.Devika
96.Jagatha
97.Manimegalai
98.Muniyammal
99.Neela
100.Senthilvadvu
101.Manjula
102.Srihari
103.Yesodha
104.Shanthi
105.Iyyappan
106.Mohan
107.Indira
108.Shanthi
109.Vengammal
110.Vijaya
111.Devika
112.Karthikeyan
113.Lakshmi
114.Alamelu
115.A.J.Prasathmohan
116.Ganesh
117.Rani
118.Maheswari
119.Saraswathi
120.Amudha
121.Archana
122.Swarnalatha
123.Anuradha
124.Balaji
125.Balakrishnan
126.Bharathi
127.Dhanambal



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128.Ethiraj
129.Flarance
130.Govindan
131.Indhumathi
132.Rajendran
133.Mahalakshmi
134.Malliga
135.Mani
136.Maragathammal
137.Ganapathy
138.Murugesan
139.Nagarathinam
140.Narayanamma
141.Neelamegan
142.Padmavathi
143.Persis Lisa Vijayarani
144.Ramani
145.Ruban
146.Ramachandran
147.Ranganathan
148.Rangaraj
149.Shanthi
150.Shanthi
151.Sujatha
152.Bhanupriya @ Tamilmalar
153.Kannan
154.Vijaya

..Petitioners

1.The State of Tamil Nadu
rep.by its Secretary to Government,
Revenue Department, Fort st.George,
Chennai 600 009.

Versus

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2.The District Collector,
Chengalpet District,
Chengalpet.

3.The District Revenue Officer,
Chengalpet District,
Chengalpet.

4.The Thasildhar,
Chengalpattu Taluk,
Chengalpattu,
Chengalpet District.

5.The Assistant Engineer,
Overseer of Water Resources Organisation,
Public Works Department,
Chengalput District.

6.The Executive Officer,
Town Panchayat Chitlapakkam,
Chitlapakkam,
Chengalpatu District.

..Respondents

Prayer:- Writ petition has been filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus calling for the entire records of the 5th respondent show cause notice dated 23.09.2020 issued to the petitioners and quash the same and further forbearing the respondents from proceeding further the process of demolition and eviction and consequently direct them to follow the due process of law in evicting the petitioners from their properties situated in Survey No. 256/1, Chitlapakkam Village, Tambaram Taluk, Chengalpet District.

For Petitioners : Mr.M.Vijay Anand

For Respondents : Mr.M.Elumalai

Additional Government Pleader
for R1 to R6

ORDER

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

The petitioners, who are 154 in number, claim to be in possession of land and superstructures in S.F.No.256/1,

Chitlapakkam Village, Chengalpet District, for more than 60 years and according to the learned counsel appearing for the petitioners, they have put up superstructures and the said superstructures are also subjected to statutory levies. The grievance expressed by the petitioners is that all of a sudden, to their shock and surprise, they have been issued with individual show cause notices by the 5th respondent alleging that they are in possession of certain extent of land in S.F.No.256/1, which is classified as 'Eri Poromboke' (water body poromboke). Some of the petitioners had also submitted their response to the show cause notice with documents. The apprehension expressed by the petitioners is that without considering the same, steps are being taken to summarily evict them from the land and superstructures and hence they came forward to file this Writ Petition.

2. The learned counsel appearing for the petitioners has drawn the attention of this Court to the Amma E-service of Land Records and would submit that as per the said record, the land in S.F.No.256/1 of Chitlapakkam Village is notified as 'Government Poromboke' and therefore, the stand of the 5th respondent that it is a "water body poromboke" is per se unsustainable.

3. The learned counsel appearing for the petitioners has also filed the additional typed set of documents, giving details of Aadhar Card and other authenticated documents to show that the petitioners continue to remain in possession of the lands in question for very many decades and also put up superstructures which are also subjected to statutory levies and as such semblance of legal right has also been created to that effect. It is also pointed out by the learned counsel appearing for the petitioners that despite very many representations made by the petitioners for issuance of Patta, the Government is yet to take a call and therefore prays for appropriate orders to the respondents 2 to 5 respectively to consider and dispose of the representations and till such time, the 5th respondent may defer further proceedings, especially in the light of the onset of monsoon and COVID-19 pandemic virus.

4. Mr.M.Elumalai, learned Additional Government Pleader accepts notice on behalf of the respondents and would submit that in the light of the various directions issued by this Court for removal of encroachments in water body, action has been taken in accordance with law and also drawn the attention of this Court to the impugned notices and would submit that it is only a show cause notice, for which, the petitioners are entitled to submit their replies with authenticated documents and on receipt of the same, it will be considered and give a disposal in accordance with law as expeditiously as possible.

5. The learned counsel appearing for the petitioners in response to the said submission would submit that individual representations of the petitioners by enclosing relevant and authenticated documents have also been sent to the 5th respondent with copies marked to the jurisdictional District Collector also.

6. This Court has carefully considered the rival submission and also perused the materials placed before it.

7. A perusal of the materials would prima facie disclose that the claim made by the petitioners is based upon their long possession of the respective pieces of land in question and construction of superstructures, which are also subjected to statutory levies. The learned counsel appearing for the petitioners would submit that in the light of the fact that the superstructures put up by the petitioners are also subjected to statutory levies, it can be termed as authorized one. In the considered opinion of this Court, the said submission lacks merit and substance and it is relevant to take into consideration the decision rendered by the Full Bench of Madurai Bench of this Court in 2005 (2) CTC 748 (Ramaraju Vs. State of Tamil Nadu, Fort St. George, Secretariat, Revenue Department) and the said judgment deals with the removal of encroachments from road and public streets. In paragraph no.38, a clarification was issued and it is relevant to extract sub para 3 of paragraph no.38, 'Payment of property tax, provisions of water connection or electricity by themselves cannot be construed as conferring any independent right, if the encroachment is otherwise unauthorized'.

8. Therefore it is open to the 2nd respondent to take necessary steps to find out whether the superstructures put up by the petitioners herein are authorised / unauthorised / deviated and if the result of the same discloses any unauthorised / deviated / illegal construction, immediate and necessary steps will be taken in accordance with law to demolish the same, by also adhering to the principles of natural justice, in response to the impugned show cause notices issued by the 5th respondent. In the light of the submission made by the learned counsel appearing for the petitioners that the individual replies by enclosing relevant necessary and authenticated documents have been submitted by the petitioners through a registered post with acknowledgment, the 5th respondent is directed to consider the said representations on merits and in accordance with law and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioners and till such time, shall defer further decision in terms of the impugned notices. It is also made clear that the petitioners, till the

disposal of the representations to the 5th respondent, shall not create any third party in respect of the respective lands and superstructures in question.

9. The Writ Petition is disposed of accordingly. No costs. Consequently connected miscellaneous petitions stand dismissed.

-s/d-
Assistant Registrar

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Sub-Assistant Registrar

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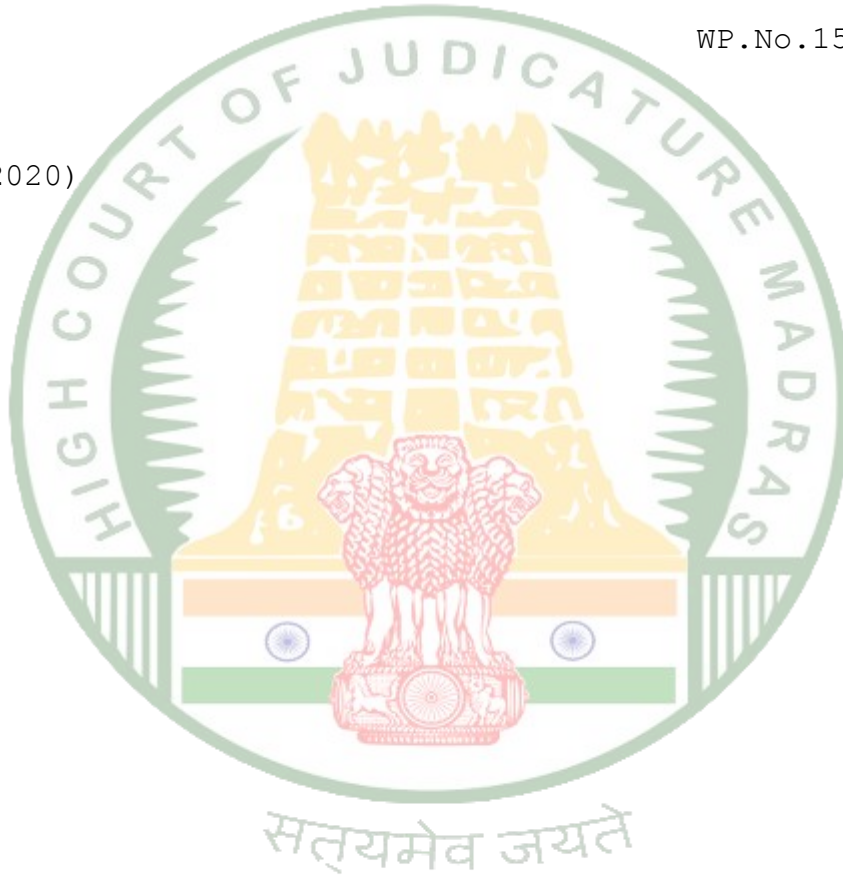
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Overseer of Water Resources Organisation,
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Town Panchayat Chitlapakkam,
Chitlapakkam,
Chengalpatu District.

+2 Ccs to Mr.Vijay Anand, Advocate sr 35676
+1 CC to The Govt. Pleader sr 36064.

WP.No.15117 of 2020

AD(CO)
SP(23/11/2020)



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