

IN THE HIGH COURT OF JUDICATURE AT MADRAS

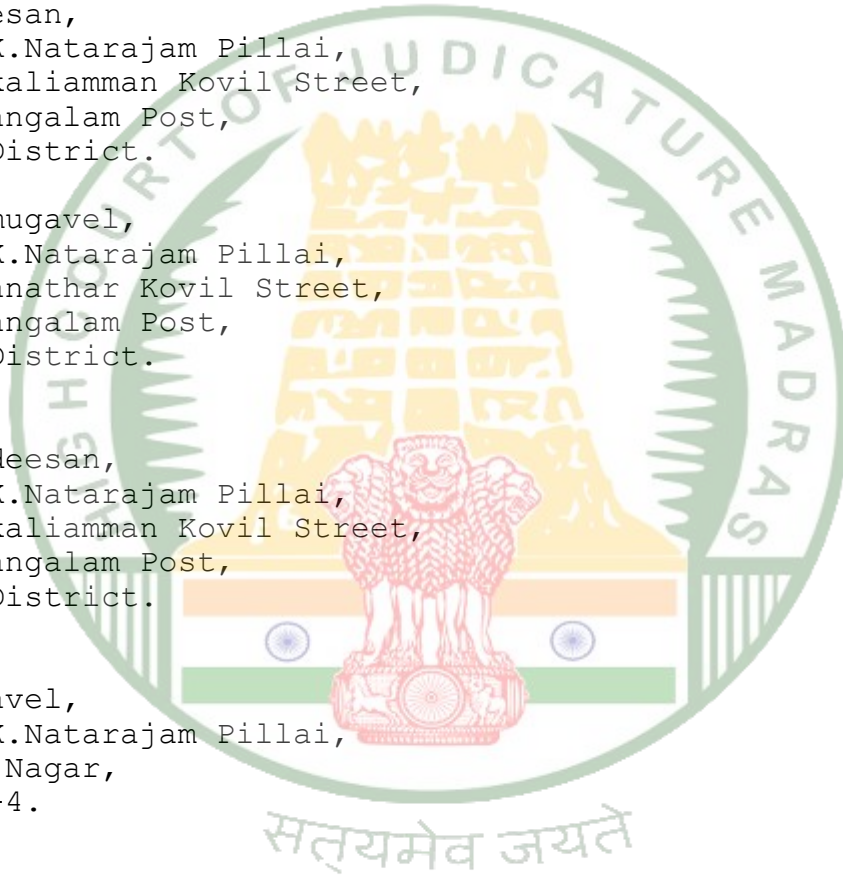
DATED : 15.07.2020

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

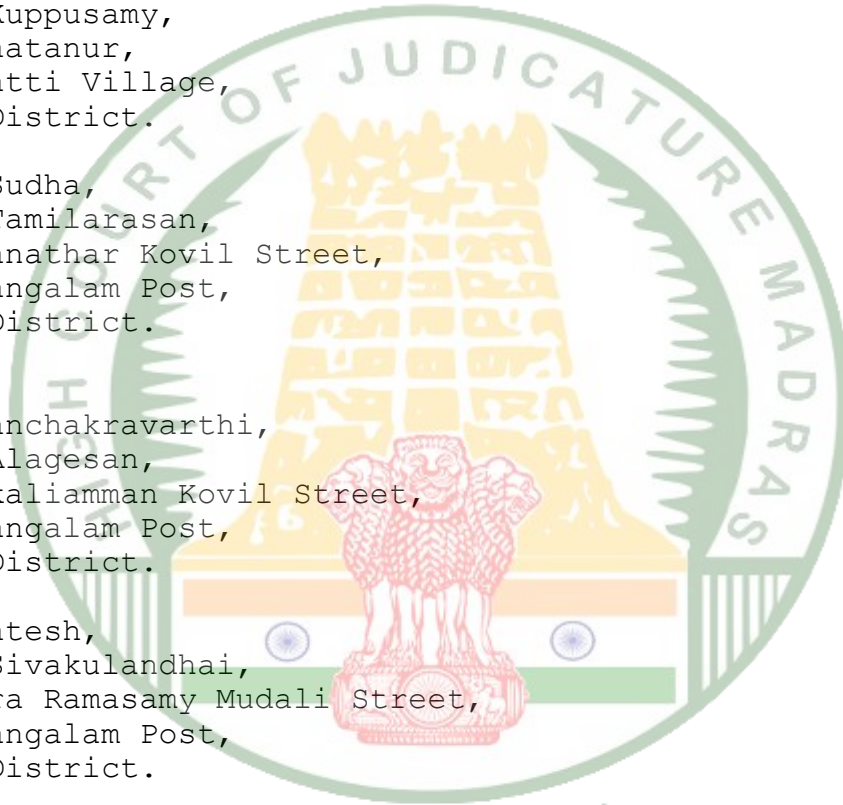
W.P No.30949 of 2019
and W.M.P.No.31042 of 2019

1. N.Alagesan,
S/o.T.K.Natarajam Pillai,
Pathrakaliamman Kovil Street,
Tharamangalam Post,
Salem District.
2. N.Shanmugavel,
S/o.T.K.Natarajam Pillai,
Kailasanathar Kovil Street,
Tharamangalam Post,
Salem District.
3. N.Jagadeesan,
S/o.T.K.Natarajam Pillai,
Pathrakaliamman Kovil Street,
Tharamangalam Post,
Salem District.
4. N.Vairavel,
S/o.T.K.Natarajam Pillai,
Sivaya Nagar,
Salem -4.
5. N.Kanagaraj,
S/o.T.K.Natarajam Pillai,
Arunachala Gurukkal Street,
Tharamangalam Post,
Salem District.
6. T.R.Ragupathy,
S/o.K.Rangasamy,
Sannathi Street,
Tharamangalam Post,
Salem District.



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7. N.Sundaram,
S/o.Nagappa Mudaliyar,
D.No.1, 2nd Floor,
Kalkaaji,
New Delhi - 19.
8. G.Sarangan,
S/o.Govindan,
Arunachalampudur,
Tharamangalam Post,
Salem District.
9. K.Anbumani,
S/o.N.Kuppusamy,
Kuttakaatanur,
Edayapatti Village,
Salem District.
- 10.Tmt.A.Sudha,
W/o.S.Tamilarasan,
Kailasanathar Kovil Street,
Tharamangalam Post,
Salem District.
- 11.A.Deepanchakravarthi,
S/o.N.Alagesan,
Pathrakaliamman Kovil Street,
Tharamangalam Post,
Salem District.
- 12.S.Venkatesh,
S/o.T.Sivakulandhai,
Pulikara Ramasamy Mudali Street,
Tharamangalam Post,
Salem District.
- 13.Kousalya,
W/o.Vasudevan,
Omalur Main Road,
Tharamangalam Post,
Salem District.
- 14.A.Vasantha Kannan,
S/o.Alagiyamanavalan,
Maatukaranpudur,
Pannapatti Village,
Salem District.



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15.V.Priyadarshini,
W/o.S.Mohan,
Ashok Nagar,
Salem - 4,
Salem District.

vs.

1.The District Collector,
Salem District,
Salem.

2.The District Registrar,
Office of the District Registrar,
(Registration Department),
Salem.

3.The Sub-Registrar,
Office of the Sub Registrar,
Tharamangalam,
Salem District.

4.The Special Tahsildar (Adi Dravidar Welfare),
Omalur Taluk,
Omalur,
Salem District.

5.The District Adi Dravidar & Tribal Welfare Officer,
Salem.

....Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to direct the respondents to accept the sale deeds being presented and to effect mutation of records viz., patta change in respect of the lands situated in S.Nos.148/3B2B, 149/2D2 and its sub divisions of Tharamangalam Village, Omalur Taluk, Salem District.

For Petitioners : Mr.G.Elangovan

For Respondents : Mr.T.M.Papaiya

Special Government Pleader

for R2 and R3

Mr.Annai Ezhil for R1, R4 to R6

O R D E R

This writ petition has been filed for issue of a writ of mandamus directing the third respondent to accept the sale deeds presented for registration and for a further direction to the fifth respondent to mutate the revenue records.

2. The case of the petitioner is that the petitioners are the owners of the land and the lands were subjected to acquisition in the year 1990. The same was challenged before this Court in W.P.No.10559 of 1991. This Court allowed the writ petition and quashed the 4(1) notification. The Court granted liberty to the authority to initiate fresh land acquisition proceedings if the lands are required in future. The relevant portion of the order is extracted hereunder:

"5. The question arises in whether in the absence of publication in the locality of the substance of the Notification under Section 4 (1) of the Act, the proceedings should be declared as null and void. In a similar situation, Supreme Court in COLLECTOR (DISTRICT MAGISTRATE) ALLAHABAD AND ANOTHER (-Vs- RAJARAMA JAISWAL (A.I.R. 1965, 1622) has held that the statutory provision should be complied with and the substance of the notification should be published in the locality and it is mandatory requirement under Rules. The Supreme Court also rejected the similar contention urged before me that since the petitioner participated in the 5A enquiry, the defects got cured of refollowing the decision of the Subordinate Court, I held that notwithstanding the fact that person has participated in the enquiry, since the mandatory requirements of the stature were not complied with and unless notice is given in accordance with provisions contended in the Notification under Section 4 (1) of the Act as well as Rule 1 of Land Acquisition (Tamil Nadu) Rules, the entire land acquisition proceedings are liable to be quashed. I am of the view that in the absence of any material to show that the substance of Notification was published in the convenient places as required under Rule 1 of the Land Acquisition (Tamil Nadu) Rules, the entire land acquisition proceedings are liable to be held as vintinted. Accordingly this writ petition is allowed. No costs. Consequently W.M.P.No.15949 of 1991 is closed.

6. However, since the acquisition proceedings have been taken for providing house sites for Adi Dravidars, it is always open to the second respondent to initiate proceedings under appropriate law, if there is still a need to acquire the lands which is the subject matter of writ petition."

3. The petitioners 1 to 5 thereafter entered into the family partition with respect to the property and they wanted to sell a portion of the property. The Sub-Registrar did not permit the registration on the ground that fresh proceedings will be initiated and therefore a writ petition came to be filed before this Court in W.P.No.37181 of 2007. This Court allowed the said writ petition by an order dated 09.01.2008 and the relevant portions in the order is extracted hereunder:

"4.It is also a specific case of the petitioner in the affidavit filed in support of the writ petition that after the earlier acquisition proceedings were quashed by this Court, there is no other land acquisition proceedings initiated by the third respondent at any point of time. The petitioner has stated to have divided the properties into various plots for the convenient enjoyment of the members of the family and also to alienate the same to third parties in the name veerapandiar Nagar and one of the such plots has already been registered with the Sub-Registrar, Taramangalam. When the document was presented to the second respondent for registration in respect of one of such plots, the matter was referred for determination of guideline value and when the enquiry was pending, the second respondent has received a letter from the third respondent dated 27.09.2007 in which the third respondent has stated that after the order of the High Court in setting aside the earlier land acquisition proceedings, the third respondent is proposing to initiate the fresh proceedings under Tamil Nadu Harijan Welfare Scheme Act 31 of 1978 and therefore, he has requested respondents 1 and 2 not to effect registration.

5. As I have stated earlier, the case of the petitioner is that even as on date, there is no land acquisition proceedings initiated by the third respondent. It is clear that even if registration is affected in respect of the above said property, it does not affect the right of the authority to proceed with the acquisition proceedings in accordance with law and merely because the third respondent desires to exercise the power under the Harijan Welfare Act does not hamper the petitioner from alienating the properties and it is not a ground for the second respondent also to refuse registration.

6.In view of the same, the second respondent is directed to receive the document presented by the petitioner for registration in respect of the

plots stated above and register the same in accordance with law, if there are no other legal impediment without influence of the letter of the third respondent dated 27.09.2007. It is made clear that this order does not prevent the third respondent from initiating any proceedings for acquisition under Act 31 of 1978. The writ petition is disposed of in the above terms. No costs. Consequently, M.P.No.1 of 2007 is closed.

4. After the orders were passed by this Court, the documents presented for registration were received and the registration was also carried out and petitioners 6 to 15 are the subsequent purchasers of the said property.

5. The petitioners once again wanted to deal with the remaining portion of the property and the very same objection was raised and the third respondent refused to entertain any document for registration and the fifth respondent refused to entertain any application for mutation of revenue records. Aggrieved by the same the present writ petition has been filed before this Court seeking for appropriate direction.

6. Heard the learned counsel for the petitioners and the learned counsel for the respondents.

7. There is no dispute with regard to the facts of the present case. It is true that there was an acquisition proceedings initiated in the year 1990 and the same was quashed by this Court by order dated 29.06.1999. This was taken into consideration by this Court in the subsequent order passed in W.P.No.37181 of 2007 dated 09.01.2008 and this Court directed the Sub-Registrar to receive the documents for registration. This Court also made it clear that unless and otherwise acquisition proceedings are actually initiated, a mere expectation that such proceedings will be initiated in future cannot be a ground to refuse registration of the documents presented by the petitioners. The registration of the document or the mutation of the revenue records does not in any way affect the right of the authority to proceed with the acquisition proceedings in accordance with law and therefore no prejudice will be caused if the documents are registered and changes are effected in the revenue records since in case of any acquisition proceedings in future, notice can be issued to the actual owners of the property and the acquisition proceedings can be continued.

8. In view of the above, there shall be a direction to the third respondent to accept the document presented for registration by the petitioners and register the same if it is

otherwise in order. Similarly as and when requisite applications are submitted for mutation of revenue records, the fifth respondent can receive the application and deal with the same and effect the mutation of revenue records, if the application otherwise satisfies all the requirements.

9. This writ petition is disposed of with the above directions. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

- 1.The District Collector,
Salem District,
Salem.
 - 2.The District Registrar,
Office of the District Registrar,
(Registration Department),
Salem.
 - 3.The Sub-Registrar,
Office of the Sub Registrar,
Tharamangalam,
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 - 4.The Special Tahsildar (Adi Dravidar Welfare),
Omalur Taluk,
Omalur,
Salem District.
 - 5.The District Adi Dravidar & Tribal Welfare Officer,
Salem.
- +1cc to Mr.S.Doraisamy, Advocate, S.R.No.24755

W.P No.30949 of 2019
and W.M.P.No.31042 of 2019

KJ(CO)
KKV/13/08/2020