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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2021

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.NO.21126 AND 21132 OF 2019

V.Rajaram	... Petitioner in WP No.21126 of 2019
V.Dhandapani	...Petitioner in WP No.21132 of 2019

Vs.

1. The Director,
Directorate of Tamil Nadu Town and country planning,
No.807, Anna Salai,
Chennai 600 002.
2. The Deputy Director
Town and Country Planning chengalpet Region
No 124 Municipal Complex GST road
Chengalpattu- 603001
- 3 The Tahsildar, Chengalpet Taluk, Kancheepuram District.
4. P.Elumalai
- 5 THE TAHSILDAR
Vandaloor. (R5 SUO MOTU IMPEADED VIDE ORDER
DT 11.08.2021 MADE IN WP.21126/2019 & WP.21132/2019 BY NAVJ)

..Respondents in both
Writ petitions

Prayer in WP No.21126 of 2019 :

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records of the Second Respondent bearing NA.KA.NO 10708/18 che.ma3 DATED 2.5.2019 and quash the same and direct the Second Respondent to process the application dated 27.4.2018 bearing Registration No DTCP/L/0143408/2017 dated 27.4.2018 submitted by the Petitioner for regularization in respect of the land ad-measuring an extent of 78.50 cents Comprised in 26/11b 26/8 30/5 and 15/1b Nallambakkam Kandigai Village



Kattankulathur Panchayath Kattanakulathur Panchayath Union
Chengalpattu Taluk Kancheepuram District.

Prayer in WP No.21132 of 2019 :

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Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records of the Second Respondent bearing NA.KA.NO 10692/18 che.ma3 DATED 2.5.2019 AND quash the same and direct the Second Respondent to process the application dated 27.4.2018 bearing Registration No DTCP/L/0144663/2017 submitted by the Petitioner for regularization in respect of the land admeasuring an extent of 70 cents Comprised in 26/7 and 26/9A, Nallambakkam Kandigai Village, Kattankulathur Panchayath, Kattanakulathur Panchayath Union, Chengalpattu Taluk, Kancheepuram District.

For Petitioner in both WPs	: Mr.L.Damodharan
For Respondents in both WPs	: Mr.U.Bharanidharan Government Advocate for R1 to R3, R5 Mr.Vijaya Ganesh for R4

C O M M O N O R D E R

These writ petitions were filed challenging the proceedings of the 2nd respondent dated 02.05.2019 and for a direction to the 2nd respondent to process the application submitted by the petitioner for regularization and pass appropriate orders within the time stipulated by this Court.

2. When the matter came up for hearing on 11.08.2021, this Court passed the following order :-

This Court Suo Motu impleads the Tahsildar, Vandaloor, as the 5th respondent in these writ petitions.

2.The Impugned Order was passed by the 2nd respondent on the ground that there is a discrepancy in the extent of the property in the FMB sketch and the same requires to be enquired and corrected by the Tahsildar and only thereafter, the application submitted by the petitioners seeking for regularisation of the layout can be considered.

3.This Court heard the learned counsel for the petitioners and the learned Government Counsel for respondents 1 to 3 and the learned counsel appearing



on behalf of the 4th respondent.

4. This Court does not want to go into the merits of the case since it is brought to the notice of this Court that the impleaded 5th respondent has already issued notice to the petitioners and the 4th respondent to attend for an enquiry on 18.08.2021 at 11.00 a.m along with all the relevant documents. In view of the same, the parties can appear before the impleaded 5th respondent and submit all the documents. The 5th respondent shall consider the same after affording opportunity to the parties and shall take a decision and report before this Court. Upon receiving the report from the 5th respondent, final orders will be passed in these writ petitions.

5. Post these writ petitions under the caption "for filing report" on 06.09.2021.

3. Thereafter, the matter was once again taken up for hearing on 06.09.2021 and this Court passed the following order :-

Pursuant to the orders passed by this Court on 11.08.2021, a common counter affidavit has been filed by the 5th respondent. The relevant portions in the common counter affidavit are extracted hereunder :-

5. It is submitted that in permanent to direction of the Hon'ble Court dated 11.08.2021, both the writ petitioner and as well as the 4th respondent were heard in person on 18.08.2021. During the personal hearing, they gave statement in supporting their claims and also furnished copies of document, in their support.

6. It is submitted that in continuation of the personal bearing of both writ petitioner, and as well as the 4th respondent, the lands under dispute, viz S.No.26/3A, 26/3B, 26/4, 26/5, 26/7 and 26/8 were inspected and surveyed by the Sub Inspector of survey on 25.09.2021 and the measurements, indicated in the field measurement, map were calculated to arrive at the correct extent for each survey number. The survey number wise area indicated in the updating registry scheme 'A' register and the area calculated according to the measurement, for each survey numbers are as follows:-



Sl.No.	Survey Number	Area as per UDR 'A' Register (Ares)	Area calculated as per the measurements in the FMB (Area)
1.	26/3A	0.09.50	0.09..64
2.	26/3B	0.15.50	0.15.58
3.	25/4	0.09.50	0.09.50
4.	26/5	0.09.00	0.09.12
5.	26/7	0.16.00	0.18.62
6.	26/8	0.09.00	0.10.27

It is submitted that though the 4th respondent represented to correct the measurement, in the FMB pertaining to the lands in S.No.26/3B, 26/4, and 26/5, there is no discrepancy in the measurement and the consequential area for the land in S.No.26/4 and there are discrepancies in the lands in S.No.26/3B and 26/5 in the FMB. Apart from them there is one discrepancy in the measurements in the FMB pertaining to the land in S.No.26/7 (relating to the writ petitioner Thiru V.Dhandapani WP No.21132 of 2019) and pertaining to the land in S.No.26/8 (Relating to the writ petitioner Thiru V.Rajaram, WP No.21126 of 2019). The discrepancies in the measurement in the FMB pertaining to the lands in S.Nos.26/3A, 26/3B, 26/5, 26/7 and 26/8 are liable to be corrected based on the documents, produced by the writ petitioners and as well as the 4th respondent. It is submitted that according to the land Survey and Boundaries Act, 1923. The Assistant Director of Survey and Land records, is the authority for approving such corrections in the FMB and as much this respondent has decided to send proposals to the Assistant Director of Survey and Land records, Kancheepuram, separately, for getting order in the matter.

2. The learned Government Counsel shall serve a copy of the common counter affidavit filed by the 5th respondent to the learned counsel for the petitioner forthwith.

3. Post this case along with WP No.12654 of 2016 under the same caption on 21.09.2021. In the meantime, the Tahsildar shall proceed further to send the proposals to the Assistant Director Survey and Land



records, Kancheepuram, requesting for correcting the discrepancies in the FMB. The same shall also be reported before this Court during the next date of hearing.

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4. Thereafter, the matter was once again taken up for hearing on 29.01.2021 and this Court passed the following order :-

Pursuant to the orders passed by this Court on 06.09.2021, it is brought to the notice of this Court by the learned Government counsel that the Tahsildar has already forwarded the proposal dated 18.09.2021 to the Assistant Director of Survey and Land Records, Kancheepuram.

2.The learned counsel for the petitioner and the learned counsel appearing on behalf of the 4th respondent submitted that the Tahsildar has proceeded to conduct the survey in the absence of the parties and the parties were never present at the time of survey. Therefore, the learned counsel urged this Court to direct the Tahsildar to conduct a survey based on the records and in the presence of the parties.

3. Mr. Ezhumalai, Deputy Tahsildar, Vandalur Taluk, Chengalpet District, was present at the time of the hearing. On enquiry, it seems that the survey was conducted in the absence of the parties.

4. In view of the above, there shall be a direction to the 5th respondent to conduct a survey on 30.09.2021 at 11:30 a.m, in the presence of the petitioner and the 4th respondent. The relevant documents shall be taken into consideration at the time of conducting the survey. The survey report shall be submitted before this Court during the next date of hearing. If there is a difference in measurement as between the report dated 18.09.2021 and the present survey to be conducted, the measurement as found in the survey to be conducted shall be incorporated in the report and thereafter, a fresh proposal shall be sent to the Assistant Director. Appropriate Orders will be passed by this Court once the survey report is submitted before this Court. Post this case under the same caption on 06.10.2021.

5. Pursuant to the orders passed by this Court on 21.09.2021, it is reported that the 5th respondent conducted a survey on 30.09.2021 in the presence of the petitioner and the



4th respondent. A report has been prepared by the 5th respondent and it has been sent to the Assistant Director, Survey and land records, Kancheepuram, through proceedings dated 05.10.2021. It is seen from the proceedings that the 5th respondent has recommended for carrying out the necessary corrections in the FMB Sketch as per the survey conducted and the report submitted.

6. In view of the above development, there shall be a direction to the Assistant Director, Survey and Land records, Kancheepuram to act upon the proceedings of the 5th respondent dated 05.10.2021 and carry out the necessary corrections within a period of six weeks from the date of receipt of a copy of this order. Thereafter, the records shall be placed before the 2nd respondent and the 2nd respondent shall pass appropriate orders, based on the application submitted by the petitioner seeking for regularization within a period of six weeks thereafter.

7. These writ petitions are disposed of with the above directions. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Director,
Directorate of Tamil Nadu Town and country planning,
No.807, Anna Salai,
Chennai 600 002.
2. The Deputy Director
Town and Country Planning chengalpet Region
No 124 Municipal Complex GST road
Chengalpattu- 603001
3. The Tahsildar,
Chengalpet Taluk,
Kancheepuram District.



4. The Tahsildar
Vandaloor.

5. The Assistant Director,
Survey and Land Records,
Kancheepuram.

+2ccs to Mr.L.Dhamodharan, Advocate, S.R.No.52877,52878

+1cc to the Government Pleader, S.R.No.52787

W.P.NO.21126 AND 21132 OF 2019

PM(CO)
PM/01/11/2021