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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2022

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.5172 of 2019

and

W.M.P.No.5881 of 2019

1. R.Vagesh Kumar
2. M.Sridharan
3. Abraham Jothinayagam
4. Ms.Evangelin Emerald
5. S.Geetha
6. Puspaveni
7. V.Nirmala
8. Mallika
9. Vilot Jayasealan
10. Janaki
11. Rajakumar
12. Asha
13. Umamaheswari Suresh
14. N.Rajamani
15. G.G.Madhavan
16. K.Ganesan
17. Dixcy Jebaclara
18. Shyamala Mercy Jullia
19. R.Sekar
20. Rajkumar Sankarapazham
21. Pushpa Arasu
22. Mohan Stewart
23. Nagarajunagandham
24. T.Stanley Rajasingh

... Petitioners

Vs.

1. The Tahsildar,
Land Ceiling and Patta Issuing Authority,
Office of Tahsildar, Puzhal Town,
32/4, SH 111,
West Garden, Natesan Nagar,
Madhavaram, Chennai - 600 060.
2. The Special Tahsildar,
Land Ceiling - Patta Issuing Authority,
Puzhal, 32/4, SH 111, West Garden,
Natesan Nagar, Madhavaram,
Chennai - 600 060.



3. The Secretary,
Revenue Department,
Secretariat, Chennai - 600 009.

4. The Commissioner (Land Reforms),
Commissionerate of Urban Land Ceiling
and Urban Land Tax Department,
Chepauk, Chennai - 600 005.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 3rd and 4th respondents to forward the papers / documents pertaining to lands comprised in Survey Nos.1485, 1485 part situated within Madhavaram Village, Saidapet Taluk, Chengalpattu District, measuring 25 acres 72 cents to the 1st and 2nd respondents and consequently direct the 1st and 2nd respondents to issue patta in the name of the petitioners.

For Petitioners : Mrs.Ritachandrasekar
For Mrs.Aiyar & Dolia

For Respondents : Mr.V.Veluchamy
Government Advocate

ORDER

This Writ Petition has been filed to direct the 3rd and 4th respondents to forward the papers / documents pertaining to lands comprised in Survey Nos.1485, 1485 part situated within Madhavaram Village, Saidapet Taluk, Chengalpattu District, measuring 25 acres 72 cents to the 1st and 2nd respondents and consequently direct the 1st and 2nd respondents to issue patta in the name of the petitioners.

2. The case of the petitioners is that the petitioners are members of the Madras Teachers Co-operative Building Society and they are owning various extents of lands situated within Madhavaram Village, Saidapet Taluk, Chengalpattu District. The total extent of the lands measuring 25 acres 72 cents were purchased under a Sale Deed dated 22.05.1914 by one K.T.Bashyam Naidu and K.Narayanappan Naidu from one Sura Rangadasu Naidu. Originally the lands were brought in the name of the mother of Sura Rangadasu Naidu under Sale Deeds dated 02.06.1906, 05.01.1901 and 03.09.1897 and a patta bearing no.529 was issued in her name. On 25.04.1914, Sura Rangadasu Naidu became the owner of the said lands by a deed of partition. By deed of sale dated 22.05.1914, the said Sura Rangadasu Naidu sold the lands to his two brothers namely K.T.Bashyam Naidu and K.Narayanappan Naidu as stated supra. Subsequently, the said property was



enjoyed as joint family properties and they were owned and enjoyed by the legal heirs of K.T.Bashyam Naidu and K.Narayanappan Naidu. There were other transactions in respect of 25 acres and 72 cents and finally under various deeds of sale, one Madras Teachers Co-operative Building Society became the absolute owner of the extent of 25.72 acres. The said Madras Teachers Co-operative Building Society prepared a layout in S.No.1477 and obtained necessary sanction from the Deputy Director of Town Planning vide Letter bearing no.5570 of 1971 dated 16.12.1971 for the layout and the Madhavaram Township under whose jurisdiction the lands are situated accorded approval for the layout by its Order No.R.C.No.5570 of 1971 dated 16.12.1971. Similar planning permissions were also obtained for layouts in 1476, 1477, 1484 and 1485 by the Society. The layouts were duly approved viz., 1st Layout - S.No.1477 - 21/71 DDTP, 2nd Layout - S.No.1476, 1477 - 6/73 DDTP, 3rd Layout S.No.1485 - 1/75 DDTP and 4th Layout - S.No.1485/1 MMDA L No.PPN 4/77. Plot No.71 measuring an extent of 2400 sq.ft. under a deed of sale dated 18.08.1980 from the Madras Teacher's Co-operative Society Ltd., registered as Document No.3245 of 1980.

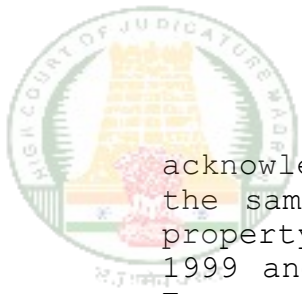
3. The lands owned by the society are not covered by the provisions of Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978. The Member Secretary, Chennai Metropolitan Development Authority vide its Letter No.A4/23674/2004 dated 12.08.2004 had intimated that the Survey No.1485 of Madhavaram Village lies in primary residential use zone and there is no land acquisition proposal by them. From the year 1975 onwards, the Madras Teachers Co-operative Building Society divided the plots in Survey No.1485 and various sale deeds were registered in the names of the members of the society viz., the petitioners herein. The petitioners who are the members of the Madras Teachers Co-operative Building Society constructed residential houses after obtaining plan approval from the appropriate authority and are residing there from the year 1979 onwards with uninterrupted possession and enjoyment. For the past 35 years, the petitioners are residing in their respective houses and are paying property taxes and other levies. The 1st and 2nd respondents without any legal cause or impediment had rejected the request made by the petitioners for issuing patta in their names. The Assistant Commissioner, Urban Land Tax, Madhavaram vide Proceedings bearing no.R.C.1950/89/C dated 23.05.1991 had intimated to Mrs.Vimala (Member of Teacher's Cooperative Building Society) that as per Rule 7(1) of the Tamil Nadu Urban Land (Ceiling and Regulation) Act 1978, an extent of 48850 square metres of land in Survey No.1485/1, Madhavaram Village falls under the Land Ceiling Act and the same has to be acquired leaving behind 500 square metres as entitlement for the land owner. The Assistant Commissioner - Land Reforms, Madhavaram



vide proceedings dated 23.09.1989 bearing no.RC.No.1950/89 had mentioned that the extent of 49350 square metres of land entirely belongs to Mrs.Vimala and from the 49350 square metres, apart from an extent of 500 square metres, the remaining lands are acquired by the Land Revenue Department and if anyone has any objection, they can approach the Revenue Department with concerned documents to prove their case.

4. The said Vimala Kuppusamy purchased Plot No.61 admeasuring an extent of 2400 square feet vide Document No.3743/1978 on 29.12.1978, III Layout and she sold the said plot to Mr.Devendran in the year 1988 vide Document No.41 of 1988. So, there is no connection between Vimala Kuppusamy and the lands comprised in S.No.1485 as on date. On the other hand, for the reasons best known to the respondents, it has been contended that Mrs.Vimala Kuppusamy had obtained power from Bashyam Naidu and sold the lands into plots. The said Vimala Kuppusamy was only a member of the society and she owned only 2400 square feet of land, which she had also sold to a third party as stated supra and at present she is not concerned with any of the lands in S.No.1485, 1485 part. It was admitted by all the concerned authorities that the lands in Survey Nos.1485, 1485 part do not fall under the Tamil Nadu Urban Land (Ceiling and Regulation) Act 1978, but however, no written confirmation to that effect has been issued till date. It was also orally informed that the lands comprised in Survey Nos.1476, 1477 and 1485 originally belonged to Bashyam Aalvandhar Naidu's family and was held as joint properties by them before the Madras Teachers Co-operative Building Society purchased it. As the same was not informed to the Revenue Department, it is alleged that the land still stands in the name of Aalvandhar Naidu. The respondents were under a wrong premise that Vimala Kuppusamy is the owner of 12.20 acres of land comprised in S.No.1485 & S.No.1485 part and the said portion is to be acquired under the Land Ceiling Act. The same is factually wrong as there is an error in the records maintained by the respondents.

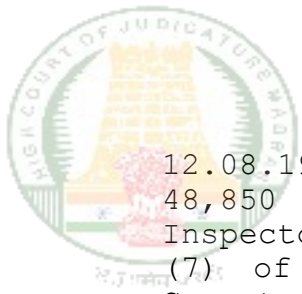
5. In this connection, the members of the Society have written to the Madhavaram, Assistant Commissioner (Land Ceiling) to produce relevant proof to show that there is Power Agreement between Bashyam Naidu and Vimala Kuppusamy and to prove that Vimala Kuppusamy had sold the plots in S.No.1485, 1485 part to various persons. But, no piece of document has been produced by them till date. Based on the information sought under RTI Act, a reply dated 28.02.2018 was received, wherein, details of pattas issued to various persons for the lands in S.No.1485, 1485 part has been furnished. But the petitioners name were not found in the same. The respondents were issued a legal notice dated 11.08.2018 explaining in detail as to how the petitioners are not entitled for patta in their names. The respondents



acknowledged the receipt of the notice, but failed to reply to the same. On 09.08.2005, the 2nd respondent has stated that the property is covered under Urban Land Ceiling Act as early as in 1999 and therefore, the petitioners are not entitled for patta. Even much before that the petitioners were issued Patta for the individual lands held by them and the stand taken by the respondents that the lands are covered under the ULC Act is imaginary and without any valid records.

6. A counter affidavit has been filed by the 3rd and 4th respondents stating that one Tmt.Vimala, Owner of the land in S.No.1485/1 measuring 49350 square metres, has not filed the return under Section 7(1) of the Tamil Nadu Urban Land (Ceiling and Regulation) Act 1978. Hence, a notice under Section 7(2) of the Act was issued in S.R.No.13/1988 on 04.03.1988 and received by Thiru Kuppusamy, Urban Land Owner's husband on 23.11.1988. Since the Urban Land Owner did not file any objections, the Competent Authority / Assistant Commissioner (Urban Land Tax) Madhavaram in RC.No.SR.13/1988 dated 31.05.1989 issued a notice under Section 9(4) of the Act along with draft Statement under Section 9(1) calling for objections if any for the proposed acquisition of excess vacant land measuring an extent of 48850 square metres after allowing entitlement area of 500 square metres. The notice was served by affixture on 30.06.1989 by the Village Administrative Officer, Madhavaram II in the presence of witness. Since the Urban Land Owner did not file any objections, Orders under Section 9(5) of the Tamil Nadu Urban Land (Ceiling & Regulation) Act 1978 was passed in Rc.1950/1989 dated 23.09.1989 to acquire the excess vacant land of 48,850 square metres in S.No.1485/1 of Madhavaram Village. The above order was sent by Registered Post with Acknowledgement due. The same was received by the Urban Land Owner on 22.11.1989. The final statement under Section 10(1) of the Act was issued to the Urban Land Owner on 16.03.1990 through R.P.A.D and the same was returned undelivered. Hence, the above said draft statement was served by affixture by the Village Administrative Officer in the presence of witness on 07.06.1990.

7. It is further stated in the counter affidavit that the Notification under Section 11(1) was prepared in Rc.No.1950/1989 dated 28.11.1990 and published in Tamil Nadu Government Gazette No.1 dated 02.01.1991 and the Notification under Section 11(3) was issued in Rc.No.1950/1989/C dated 22.02.1991 and it was published in Tamil Nadu Government Gazette No.14, dated 10.04.1991 vesting the land with Government with effect from 15.03.1991. The notice under Section 11(5) of the Act was issued through R.P.A.D on 23.05.1991 with a direction to the Urban Land Owner to hand over the possession of the excess vacant land to the Tahsildar, Saidapet. The same was returned as 'left'. Hence, the notice was served by affixture by the Revenue Inspector on



12.08.1991. The possession of the excess vacant land measuring 48,850 square metres was handed over to the Firka Revenue Inspector, Madhavaram on 22.01.1993. A notice under Section 12 (7) of the Act was issued to the Urban Land Owner by the Competent Authority in Rc.No.1950/1989 on 25.08.2000. The same was sent by Special Messenger, the Urban Land Tax owner refused to receive the notice and the same was served by affixture. Order under Section 12(6) of the Act was issued through R.P.A.D on 28.11.2000. At this stage, Tvl. N.Rajamani & 23 others filed this Writ Petition before this Court in W.P.No.5172 of 2019 requesting to issue patta to their plots purchased by them. If there was any objection to the proceedings issued by the respondents, the Urban Land Owner could have filed an appeal under Section 33 of the Act before the Appellate Authority. But on receipt of the orders under Section 9(5) of the Act, Tmt.K.Vimala, neither filed an appeal nor filed any objections. Hence, further action was proceeded as per the provisions of the Act.

8. Additional counter affidavit has also been filed by the 4th respondent, wherein, it is stated that in the instant case, the possession of excess vacant land was taken and handed over to the revenue authorities on 22.01.1993 well before the commencement of Repeal Act 20/1999 with effect from 16.06.1999. The petitioners who is stated to have purchased the above property failed to mutate the revenue records. Hence, acquisition proceedings was proceeded in the name of Tmt.Vimala. On receipt of the order under Section 9(5) of the Act, the petitioners failed to file any appeal under Section 33 of the Tamil Nadu Urban Land Ceiling Act. Hence, the petitioners cannot be treated as owners of the land.

9. It is further stated in the counter affidavit that on publication of notification under Section 11(3) of the Act, the land stands vested with Government free from encumbrances. In this case, the land stands vested with Government on 15.03.1991. Thereafter, the possession of the acquired land was handed over on 22.01.1993. All the actions were completed before the Repeal Act came into force. Hence, it is a clear case where the same is saved under the saving clause provided under Section 3(1)(a) of the Repeal Act. It is also stated that the Government in order to alleviate the sufferings of the public has issued orders in G.O.Ms.565, Revenue Department, dated 26.09.2008 to regularize the purchase made by the public unknowingly. In the present case, the petitioners are the subsequent purchasers of the case land, hence they may seek remedy under innocent purchaser scheme.

10. Heard the learned counsel for the petitioners and the Learned Government Advocate appearing for the respondents, and perused the materials available on record.



11. On perusal of the records, it is seen that the petitioners have purchased the lands comprised in Survey Nos.1485, 1485 part measuring 25.72 acres at Madhavaram Village, Saidapet Taluk, Chengalpattu District. The said lands were previously owned by one Madras Teachers Co-operative Building Society and they purchased the same under various sale deeds as early as 1975. Subsequently, the said Madras Teachers Co-operative Building Society divided the plots in S.No.1485 and formed a layout after obtaining necessary sanction from the appropriate authorities. Thereafter, the petitioners herein have purchased the said plots under various sale deeds and constructed residential houses in their respective plots after obtaining plan approval from the concerned authorities. From the date of purchase, the petitioners are in possession and enjoyment of the said lands. While so, the petitioners have applied for patta to their respective plots in S.No.1485 before the respondents. The respondents have rejected their request for issuance of patta. Hence, the above Writ Petition has been filed before this Court.

12. It is contended by the learned counsel for the petitioners that the petitioners are the owners of the land in Survey No.1485 at Madhavaram Village. The petitioners are residing there from the year 1979 onwards by constructing a residential house and by paying property taxes and other levies. From the date of purchase, the petitioners are in absolute possession and enjoyment of the said lands. While so, the respondents have rejected their request made for issuing patta to their lands stating that their property is covered under the Urban Land Ceiling Act as early as in 1999 and therefore, they are not entitled for patta. The learned counsel for the petitioners then submitted that even prior to the year 1999, the petitioners were issued patta for the individual land held by them. Hence, the stand taken by the respondents that the lands are covered under the Urban Land Ceiling Act is not acceptable.

13. It is contended by the Learned Government Advocate appearing for the respondents that originally, one Mrs.Vimala is the owner of the lands in Survey No.1485/1. The land in the said survey number measuring an extent of 48,850 square metres was found as excess vacant land and therefore, it was acquired under the provisions of Tamil Nadu Urban Land (Ceiling and Regulation) Act 1978. The possession of the excess vacant land was handed over to the revenue authorities on 22.01.1993 well before the commencement of Repeal Act 20/1999. Hence, the petitioners' claim for issuance of patta cannot be considered by the respondents.

14. It is also contended by the Learned Government Advocate



appearing for the respondents that a notice under Section 9(4) of the Act was issued to the land owner Mrs.Vimala calling for objections if any for the proposed acquisition of excess vacant land. Since the land owner has not filed any objections, orders under Section 9(5) of the Tamil Nadu Urban Land (Ceiling and Regulation) Act 1978 was passed to acquire the excess vacant land.

15. The learned counsel for the petitioners then submitted that the Vimala who is stated to be the owner of the lands in Survey No.1485 is only a member of the society and she owned only 2,400 square feet, which she had also sold to a third party and at present she is not concerned with any of the lands in S.No.1485. The respondents are under a wrong impression that the Vimala is the owner of the property, and the same is factually wrong as there is an error in the records maintained by the respondents. It is further submitted by the learned counsel for the petitioners that the lands owned by the petitioners are not covered under the provisions of the Urban Land Ceiling Act and the Member Secretary of Chennai Metropolitan Development Authority vide his letter dated 12.08.2004 had intimated that the Survey No.1485 of Madhavaram Village lies in primary residential use zone and there is no land acquisition proposal by them. The respondents without perusing the records properly refused to grant patta to the petitioners' land.

16. On going through the materials placed on record with regard to contentions raised by the learned counsel for the petitioners as well as the Learned Government Advocate appearing for the respondents, it is seen that originally, the entire extent of the lands in Survey No.1485 at Madhavaram Village were owned by the mother of one Sura Rangadasu Naidu who purchased the same under various sale deeds dated 03.09.1897, 05.01.1901 and 02.06.1906 and a patta was also issued in her name. Subsequently, the said Sura Rangadasu Naidu became the owner of the property and he sold the property to his two brothers namely K.T.Bashyam Naidu and K.Narayanappan Naidu by sale deed dated 22.05.1914. Thereafter, the said properties were enjoyed as joint family properties and the legal heirs of K.T.Bashyam Naidu and K.Narayanappan Naidu were in possession and enjoyment of the same. Then, there were some transactions between the legal heirs of K.T.Bashyam Naidu and K.Narayanappan Naidu in respect of the 25.72 acres and finally, under various deeds of sale, one Madras Teachers Co-operative Building Society has purchased the said extent of 25.72 acres.

17. It is seen from the typed set of papers that, during the period from 1975 to 2014, various sale deeds were registered in Survey No.1485 in the names of the members of the Madras Teachers Co-operative Building Society. The details of the lands



owned by the society members are filed by the petitioners, which reveals the plot numbers, survey number, date of purchase and document numbers under which the plots were purchased by the society members. It also reveals the present owners of the said plots, in which, petitioners' names are also found. The extent of land purchased by each of the members of the society is also mentioned in the same.

18. It was contended by the respondents that one Vimala is the owner of the total extent of lands in Survey No.1485/1 at Madhavaram Village, but it is seen from the records that the Vimala is only a member of the society, she had purchased only an extent of 2,400 square feet in the said survey number, that too she had sold to one Devendran in the year 1988 vide sale deed dated 07.01.1988. In fact, on 20.09.2016, the Vimala has written a letter to one G.Selvam who is the 1st petitioner herein clarifying the extent she had owned and later sold by her, in which, she has clearly stated that except the 2,400 square feet, she had not owned any other land in Survey No.1485.

19. It was also contended by the respondents that the possession of excess vacant land was already handed over to the respondents on 22.01.1993 well before the commencement of Repeal Act 20/1999, but it is seen from the records that the respondents have issued only a notice requesting to deliver possession of the excess vacant land to the said Vimala, and no document has been produced before this Court to show that the possession was already handed over to the respondents. Also, it is found from the records that some of the persons who purchased lands in Survey No.1485/1 at Madhavaram Village were issued patta in their names and the respondent himself has given those details by his letter dated 28.02.2018 when an information under RTI Act was sought for by one of the petitioners namely G.Selvam by his letter dated 30.01.2018.

20. When the respondents specifically state that Vimala is the owner of the property in Survey No.1485 and the possession was already handed over to the respondents, none of the materials have been produced before this Court to prove the said fact. Further, the Vimala herself has admitted in her letter dated 20.09.2016 that she had not owned any other land in Survey No.1485 except the 2,400 square feet sold to one Devendran. The respondents also contended that the properties are covered under the Urban Land Ceiling Act as early as in 1999 and therefore the petitioners are not entitled for patta, but it is found from the records that even after the year 1999, various sale deeds were registered in favour of the persons similar to the petitioners and patta was also issued in their names. Hence, this Court is of the considered view that the petitioners herein can also be issued patta to their lands.



21. As it is seen from the records, from the original owners viz., K.T.Bashyam Naidu and K.Narayanappan Naidu and from his family members, the Society has purchased the land to an extent of 25.72 acres, in which, the Society has prepared a layout in Survey No.477 and obtained necessary sanction from the Deputy Director of Town Planning by his letter No.5570 of 1971, dated 16.12.1971 and Madhavaram Township under whose jurisdiction the lands are situated have also approved the lay out by his order No.Roc.No.2866/71 in Survey No.22 of 1971, dated 30.03.1972 and the said approval was subject to the condition in respect of the details of the roads to be laid and stipulates that the plots should be used only for construction of dwelling houses and not for shops. Similar planning permission Nos.3/77 and 4/77 have also been obtained for layouts in Survey Nos.1476, 17787, 1484 and 1485 by the Society. As the lands owned by the Society were not covered by the Tamil Nadu Urban Land (Ceiling and Regulations) Act, 1978 and the Society has also obtained legal opinion from the competent Advocate, the parties have also purchased the same. The alleged notices issued by the Ceiling Authorities were not produced before this Court to prove the same.

22. The counter-affidavit filed by the authorities was not supported by any documents. They also admitted that the Government in order to alleviate the sufferings of the public has issued orders in G.O.Ms.No.565, Revenue Department, dated 26.09.2008 to regularize the purchase made by the public unknowingly. As the Government themselves agreed that the land has not been taken by them and the lands are vested with the various parties, the authorities now come and canvass that the properties are covered under the Tamil Nadu Urban Land (Ceiling and Regulations) Act, 1978. The Urban Land Ceiling is also repelled and still the possession are with the purchasers. The sale of the lands have been taken place from the year 1971 to 1975.

23. The learned Government Advocate appearing for the respondents stand is that the said lands are covered under the Tamil Nadu Urban Land (Ceiling and Regulations) Act, 1978, wherein they have sent a notice to one Vimala, who is not the owner of the property and the property belonged to K.T.Bashyam Naidu and K.Narayanappan Naidu, who in turn have sold it to the society. The said notice has to be issued either to K.T.Bashyam Naidu and K.Narayanappan Naidu family members or to the Society. On the wrong presumption, they have sent notice to one Vimala and her husband Kuppusamy received the same and the wrong committed by the authority cannot be accepted.

24. The lands vested with the Government in the year 1991



and the acquired land was handed over on 22.01.1993 was also not substantiated by any evidence. After obtaining planning permission, the petitioners have constructed their houses and residing in the place for the past 35 years. Hence, the claim made by the respondents are rejected. The service of notice affixed on a wrong person has not to be taken as a sufficient service, since the same has not been sent to the rightful owner and the property has already been purchased by various parties and lay out plan has been approved in the year 1971 itself, the authorities cannot now raise such claim.

25. As already pointed out that the said lands are not covered under the Tamil Nadu Urban Land (Ceiling and Regulations) Act, 1978 and no notice has been sent on the original owners, this Court is of the view that the petitioners are entitled for the prayer sought for in the Writ Petition and the applications sent for issuance of patta to be considered by the respondents within a period of three months.

26. Accordingly, this Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

raja

To

1. The Tahsildar,
Land Ceiling and Patta Issuing Authority,
Office of Tahsildar, Puzhal Town,
32/4, SH 111, West Garden,
Natesan Nagar, Madhavaram,
Chennai - 600 060.
2. The Special Tahsildar,
Land Ceiling and Patta Issuing Authority,
Puzhal, 32/4, SH 111, West Garden,
Natesan Nagar, Madhavaram,
Chennai - 600 060.
3. The Secretary,
Revenue Department,
Secretariat, Chennai - 600 009.



4. The Commissioner (Land Reforms),
Commissionerate of Urban Land Ceiling
and Urban Land Tax Department,
Chepauk, Chennai - 600 005.

WEB COPY

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and
W.M.P.No.5881 of 2019

PL (CO)
SB (16/02/2022)