



W.P.Nos.13277 of 2019 etc.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On	23.08.2022
Pronounced On	09.11.2022

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No.13277, 13282 & 13294 of 2019 &14368 of 2021

and

**W.M.P.Nos.13399, 13395, 13381, 13383,
13401 & 13403 of 2019 and 5280 & 15282 of 2021**

W.P.No.13277, 13282 & 13294 of 2019

M.Kangeyan

... Petitioner
in all W.Ps.

Vs.

1.The State of Tamilnadu
Rep by its Secretary to Government,
Revenue [LD5(2)] Department,
Fort St.George,
Chennai – 600 009.

... R1 in all W.Ps.

2.The Secretary,
Energy Department,
Fort St.George,
Chennai – 600 009.

3.The TANGEDCO,
Rep. by its Chairman and Managing Director,
No.144, Anna Salai,
Chennai 600 002.

... R2 & R3 in
W.P.No.13277/19



W.P.Nos.13277 of 2019 etc.

WEB COPY

4.The Secretary,
Backward, Most Backward Classes &
Minority Welfare Department,
Fort St.George,
Chennai – 600 009.

5.Director of Backward Classes
and Minorities Welfare,
Chepauk, Chennai – 600 005.

... R2 & R3 in
W.P.No.13282/19

6.The Secretary,
Municipal Administration and
Water Supply Department,
Fort St.George,
Chennai – 600 009.

7.The Chairman,
Chennai Metropolitan Water Supply
and Sewerage Board,
No.1, Pumping Station Road,
Chintadripet, Chennai – 600 002.

... R2 & R3 in
W.P.No.13294/19

8.The District Collector of Chennai,
Office of the Collectorate,
Rajaji Salai, Chennai – 600 001.

9.The Commissioner for Land Administration
Chepauk, Chennai – 600 005.

10.The Tahsildar,
Ayanavaram, Chennai – 600 023.

... R4 to R6 in
all W.Ps.

11.The Principal Secretary,
H.R. & C.E. Department,



W.P.Nos.13277 of 2019 etc.

WEB COPY

Secretariat, Fort St. George,
Chennai 600 009.

... R7 in all W.Ps.

[R7 in all W.Ps. *suo motu* impleaded by this order.]

Common Prayer:- Writ Petitions filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records of the first respondent in connection with the records in G.O. (Ms) No.341, Revenue [LD5(2)] Department, dated 12.08.2014 and G.O. (Ms) No.165, Revenue [LD4(1)] Department, dated 13.04.2015 and G.O. (Ms) No.56, Revenue [LD5(2)] Department, dated 04.02.2016 followed by the Extract From The Town Survey Land Register printed and issued by the sixth respondent and to quash the same.

For Petitioner : Mr.B.Kumar, Senior Counsel
for Mr.R.Loganathan in all W.Ps.

For R1, R2, R4 to R6 : Mr.S.Silambannan
Additional Advocate General
assisted by Mr.Yogesh Kannadasan
Special Government Pleader,
in all W.Ps.

For R3 : Mr.L.Jaivenkatesh, Standing Counsel



W.P.Nos.13277 of 2019 etc.

W.P.No.14368 of 2021

WEB COPY M.Kangayan

... Petitioner

Vs.

- 1.The Managing Director and
Member Secretary,
Chennai Metropolitan Development
Authority,
Egmore, Chennai – 600 008.
- 2.The Commissioner of Corporation
of Chennai,
Rippon Buildings,
Chennai – 600 003.
- 3.The TANGEDCO,
Rep. by its Chairman and Managing Director,
No.144, Anna Salai, Chennai 600 002.
- 4.The Chairman,
Chennai Metropolitan Water Supply and
Sewerage Board,
No.1, Pumping Station Road,
Chintadripet, Chennai 600 002.
- 5.The Government of Tamil Nadu,
Rep. by the Secretary to Government,
Revenue Department, Fort St.George,
Chennai.
- 6.The Additional Chief Secretary and
the Commissioner of Land Administration,
Chepauk, Chennai.
- 7.The District Collector,
Chennai District, Chennai.



W.P.Nos.13277 of 2019 etc.

8.The Principal Secretary,
H.R. & C.E. Department,
Secretariat, Fort St. George,
Chennai 600 009.

... Respondents

[R5 to R7 *suo moto* impleaded vide order dated
05.08.2021 & R8 *suo motu* impleaded by this order.]

Writ Petition filed under Article 226 of the Constitution of India,
for issuance of a Writ of Mandamus, to direct the first and second
respondents to take action against the third and fourth respondents under
the respective statute in respect of the property particulars mentioned in
the schedule to this petition.

For Petitioner	: Mr.B.Kumar, Senior Counsel for Mr.R.Loganathan
For R1	: M/s.Veena Suresh, Standing Counsel
For R2	: Mrs.P.T.Ramadevi, Standing Counsel
For R3	: Mr.L.Jaivenkatesh, Standing Counsel
For R4	: Mr.R.Shanmugasundaram Advocate General assisted by Mr.C.Vigneshwaran and M/s.A.G.Shakeena
For R5 to R7	: Mr.S.Silambannan Additional Advocate General assisted by Mr.Yogesh Kannadasan Special Government Pleader



W.P.Nos.13277 of 2019 etc.

COMMON ORDER

WEB COPY By this common order, all the four Writ Petitions are being disposed of.

2. W.P.No.14368 of 2021 has been filed for issuance of a Writ of Mandamus, to direct the first and the second respondents [*Managing Director and Member Secretary, Chennai Metropolitan Development Authority, Egmore and The Commissioner of Greater Chennai respectively*] to take action against the third and fourth respondents [*TANGEDCO & The Chairman of Chennai Metropolitan Water Supply and Sewerage Board respectively*] under the respective Statutes in respect of the property particulars mentioned in the Schedule to this Writ Petition.

3. The third and fourth respondents [*TANGEDCO & The Chairman of Chennai Metropolitan Water Supply and Sewerage Board respectively*] are proceeding with construction in the respective sites assigned to them in the said property pursuant to G.O.Ms.No.56, Revenue [LD5(2)] Department, dated 04.02.2016, G.O.Ms.No.341,



W.P.Nos.13277 of 2019 etc.

Revenue [LD5(2)] Department, dated 12.08.2014 and G.O.Ms.No.165,

Revenue [LD4(1)] Department, dated 13.04.2015.

4. The petitioner has earlier filed these W.P.Nos.13282, 13277, and 13294 of 2019 and challenged the above mentioned respective G.Os. The prayers in W.P.Nos.13282, 13277 and 13294 read as under:-

W.P.No.13282/2019	W.P.No.13277/2019	W.P.No.13294/2020
To issue a writ of Certiorarified Mandamus, calling for the records of the first respondent in connection with the records in G.O.Ms.No.56 Revenue [LD5(2)] Department dated 04.02.2016, followed by the Extract from the Town Survey Land Register prined and issued by the 6threspondent and to quash the same.	To issue a writ of Certiorarified Mandamus, calling for the records of the first respondent in connection with the records in G.O.Ms.No.341 Revenue [LD5(2)] Department dated 12.08.2014, followed by the Extract from the Town Survey Land Register prined and issued by the 6threspondent and to quash the same.	To issue a writ of Certiorarified Mandamus, calling for the records of the first respondent in connection with the records in G.O.Ms.No.165 Revenue [LD4(1)] Department dated 13.04.2015, followed by the Extract from the Town Survey Land Register prined and issued by the 6threspondent and to quash the same.

5. The petitioner claims to be the owner of the above mentioned property having purchased from his vendor J.R. Arunkumar, S/o. Rangasamy Mudaliar and two sons of the said J.R. Arunkumar.



W.P.Nos.13277 of 2019 etc.

WEB COPY

6. The specific case of the petitioner is that the property in question was gifted by late Murugappa Mudaliar to his son Jagadeesan Mudaliar vide registered Settlement Deed dated 23.09.1895. After the death of Jagadeesan Mudaliar, his son Rangasamy Mudaliar allegedly inherited the property.

7. The said Rangasamy Mudaliar is said to have executed a Settlement Deed dated 11.01.1965 which was registered as Document No.41/1965 on the file of Sub Registrar, Pallavaram in favour of his son, J.R.Arunkumar (the first vendor of the petitioner) and also declared that the land was in possession with his father by a sworn affidavit.

8. The petitioner claims to have purchased the land from the said J.R.Arunkumar and his two sons namely Sathainathan and Sadanandan. The said J.R.Arunkumar had earlier executed an unregistered Sale Agreement dated 10.09.2001 in favour of S.Murugesan, the father of the petitioner.



W.P.Nos.13277 of 2019 etc.

9. The petitioner's father filed a suit for specific performance against the said J.R.Arunkumar and his sons in C.S.No.196 of 2004 before this Court. There, a compromise was stitched between the petitioner's father S.Murugesan and J.R.Arunkumar and his sons namely A.Sathianathan and A.Sadanandan and thereafter, they executed a Sale Deed dated 11.07.2007 in favour of the petitioner herein which was registered as Doc.No.6435 of 2007.

10. Subsequently, a Rectification of Sale Deed was also executed on 08.08.2007, whereby, the details of the property including boundaries were rectified. The relevant portion of the Rectification of Sale Deed dated 08.08.2007 reads as hereunder:-

Whereas by a Sale Deed dated 11.07.2007 and made between the same persons as one parts hereto and in the same order (hereinafter called the principal deed) the Vendors agreed to sell to the Purchaser their land which is morefully described in the schedule hereunder:

Whereas the Principal deed has been registered at Sub-Registrar Office, Sembiam, registered as Document No.6435 of 2007, in Book No.1, total pages 19, dated 11.07.2007.



WEB COPY



W.P.Nos.13277 of 2019 etc.

Whereas certain mistakes have accidentally crept in the recital of the principal deed and the parties have now agreed to rectify them.

Whereas the principal deed in page No.4 the S.No.6/8 part is wrongly typed instead of S.No.6/8. Whereas the principal deed in page No.5 the Settlement deed dated 29.01.1965 is wrongly typed instead of dated 11.01.1965.

Whereas the principal deed in page No.14 the T.S.No.29 is wrongly typed instead of T.S.No.21 and also in the same page boundaries are wrongly typed as North by S.No.6(part) South by S.No.12, East by S.No.7 instead of North by S.No.6/2 & S.No.6/3, South by S.No.6/9 & S.No.6/10 and East by S.No.6/4, S.No.6/5, S.No.6/6 and S.No.6/7. Moreover in the same page No.14 after the word Registration the word District is omitted and the word "or" wrongly typed as instead of 'o' after the word Registration. In addition to that in the same page the word 'Door' wrongly added and the same to be deleted before No.65, Kolathur Village.

The Location, extent and boundaries of the property mentioned in the Schedule are not changed. Instead of noting adjacent sub division numbers as boundaries, adjacent survey numbers are noted accidentally in the principal sale deed. It is mere a clerical. No consideration is received for this rectification deed.

The field map of the survey number concerned is also annexed with this rectification deed. Now this deed of rectification witnesses that the parties hereby agreed to rectify the mistake found in the principal deed in Page No.3,4,5 & 14. The



W.P.Nos.13277 of 2019 etc.

principal deed shall remain in full force and effect as rectified and modified as aforesaid.

SCHEDULE

All that piece of vacant land of an extent of 1 Acre and 70 Cents situate in Sri Ganesh Nagar, bearing No.65, Kolathur Village, comprised in Paimash No.736, S.No.6/8, T.S.No.21, Block No.2 and bounded on the North by - S.No.6/2 & S.No.6/3 South by - S.No.6/9 & S.No.6/10 East by - S.No.6/4 & S.No.6/5, S.No.6/6 & S.No.6/7 West by - S.Nos.4 & 5 Situated within the Sub registration district of Sembiam and Registration district of North Chennai.

11. Thus, a Sale Deed was executed by J.R.Arunkumar and his two sons in favour of the petitioner, though the suit was filed by the petitioner's father S.Murugesan in C.S. No 196 of 2004 before this Court. The said J.R.Arunkumar also appears to have earlier obtained a Ryotwari Patta dated 27.06.2000 from the then Assistant Settlement Officer one Thiru.Shanmugam under Section 11 of the Tamil Nadu Estates (Abolition and conversion into Ryotwari) Act, 1948.

12. Subsequently, based on the proposal of the Director of Survey and Settlement, Pattas issued by the said Assistant Settlement Officer



W.P.Nos.13277 of 2019 etc.

Thiru.Shanmugam were cancelled by the Special Commissioner and Commissioner of Land on 26.06.2008 in the exercise of *suo moto* powers conferred under Section 7(c) of the Act. A direction is said to have been issued to the Authorities to initiate Criminal action against the persons involved in the issuance of Pattas based on alleged fabricated documents.

13. While perusing the documents filed by the petitioner, it is noticed that the property in question was earlier classified as an “Anadheenam - Neerpidipu” (அனாதீனம் நீர்பிடிப்பு) indicating that the subject land was an abandoned water body. *Prima facie*, it appears that the subject land was outside the purview of the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948.

14. Photocopies of few documents filed in these Writ Petitions including certified copy of the documents appear to have been filed in O.S.No.4312 of 2007 and in connected Suits in O.S.No.4689 of 2007 and O.S.No.5116 of 2007. They were called for and verified. Details of these Suits are as under:-



W.P.Nos.13277 of 2019 etc.

Sl. No.	O.S.No.	Parties in the suit	Remarks
1	4312 of 2007 and 4689 of 2007	K.Bhoopalan Vs. J.R.Arunkumar, S.Murugesan S.Kumaravel	The suit is still pending before the V Asst. Judge, City Civil Court, Chennai.
2	5116 of 2007	V.M.Yoosuf and ors Vs K.Bhoopalan and S.Kangeyan	The suit is still pending before the VI Asst. Judge, City Civil Court, Chennai.
3	6943/1995	Executive Officer, Arulmighu Somanathaswamy Koil vs. K.Boopalan	Suit was dismissed by the V Assistant Judge, City Civil Court, Chennai.

15. O.S.No.5116 of 2007 was filed by one V.M.Yoosuf and others before the VI Assistant Judge, City Civil Court, Chennai for permanent injunction and is still pending. The said V.M.Yoosuf and others claimed to have purchased to an extent of 0.38 - 3/4 Cents out of 1.70 Acres from the first defendant therein K.Boopalan. On verifying the Court records, it appears that the Suit was earlier dismissed for default and thereafter was restored and the same is pending as on date.

16. O.S.No.4312 of 2007 was filed by K.Bhoopalan. He also filed O.S.No.4689 of 2007 against the said J.R. Arunkumar (the first vendor of the petitioner), S.Murugesan (the father of the petitioner) and one



W.P.Nos.13277 of 2019 etc.

Kumaravel (the petitioner's uncle) and the petitioner respectively. Both these Suits are still pending before the V Assistant Judge, City Civil Court, Chennai.

17. These two Suits have been filed for permanent injunction to restrain the defendants therein from interfering with the peaceful possession and enjoyment of the entire extent of 1.70 Acres. An interim injunction was granted in favour of the plaintiff K.Bhoopalan. However, it was subsequently set aside by this Court vide order dated 25.08.2009 in C.R.P.(NPD) No. 1737 of 2008.

18. Record also indicates that O.S.No.6943 of 2007 was filed by the Executive Officer of Arulmigu Somanathaswamy Kovil (Temple) against K.Bhoopalan for a permanent injunction restraining the said K.Boopalan from developing the land. The suit was however dismissed by the V Asst. Judge, City Civil Court, Chennai, on 30.06.2005.

19. The said K.Boopalan had earlier filed W.P.Nos.9934 and 9935 of 2006 for a Writ of Mandamus to direct the Tahsildar to pass



W.P.Nos.13277 of 2019 etc.

appropriate orders on merits to annul the settlement proceedings and for the grant of Patta for the suit property in his favour.

20. The said Writ Petitions was disposed of on 29.01.2008 with the following observations:-

"4. Since the application submitted by the petitioner is pending before the District Collector from August 2005, I am of the view that interest of justice would be met by directing the first respondent to pass orders on merits taking note of the settlement proceedings within eight weeks from the date of receipt of a copy of this order. Till such time, the petitioner's possession and enjoyment shall not be disturbed in any manner. The District Collector is also directed to give notice to the petitioner and produce the records which the petitioner relies on. The petitioner is also directed to enclose a copy of the representation submitted before the third respondent on August 2005 along with a copy of this order for expeditious disposal of the application by the District Collector."

21. Aggrieved by the same, W.A.Nos.592 and 593 of 2008 were filed by the petitioner herein before the Division Bench of this Court. However, the petitioner withdrew the said Writ Appeals on 09.06.2008. The Division Bench of this Court granted liberty to the petitioner to file



W.P.Nos.13277 of 2019 etc.

an appropriate application for clarification before the Single Judge who passed the order dated 29.01.2008 in W.P.Nos.9934 and 9935 of 2006.

22. Thus, Review Application Nos.78 & 79 of 2008 were filed in W.P.Nos.9934 and 9935 of 2006 by the petitioner herein M.Kangeyan (as a third party) before the learned Single Judge. An order was passed, whereby, a part of the order where it stated that “The petitioner’s possession and enjoyment shall not be disturbed in any manner” was deleted.

23. The said K.Boopalan also filed W.P.Nos.9468 of 2009, 8581 of 2015, 437 & 442 and 449 of 2020 before this Court. In the said proceedings, the said K.Boopalan was represented by his Power of Attorney namely V.R.Sundar, in whose favour, a Registered Power of Attorney dated 31.08.1997 was executed. The said Writ Petitions were disposed by this Court with the following observation:-

“5. It is seen that in paragraph No.2, he claims himself as a Bonafide Power of Attorney Holder. It is clear that the power Agent V.R.Sundher, S/o.P.K.V.Raghavan, No.5-A, Red



WEB COPY



W.P.Nos.13277 of 2019 etc.

Hills Road, Villivakkam, Chennai – 600 049, had played a fraud on the Court by claiming to be Power of Attorney Agent of a fictitious person and by giving fictitious address and had also obtained interim orders by this Court in the year 2009 and again in the year 2015, which interim orders have been continuing till this date and he also filed further writ petitions in the year 2020. Now he claim innocence and ignorance about his principal, as a fictitious person and had given a fictitious address for K.Boopalan. The said agent seeks indulgence of this Court. However, the indulgence cannot be granted.

6. It is clear that V.R.Sundher had taken advantage of the Court proceedings and had filed the writ petitions and played fraud with the Court and had destroyed judicial sanctity.

7. Consequently, I direct the Registry to issue notice for criminal contempt for appearance of V.R.Sundher, S/o. Mr.P.K.V.Raghavan, No.5-A, Red Hills Road, Villivakkam, Chennai – 600 049, and also for appearance of K.Boopalan, S/o.Late Mr.Kumar, No.28, G.N.Street, Aminjikarai, Chennai – 29. I am issuing Criminal Contempt knowing fully well the matter will be heard taken by a Division Bench since as referred earlier in the order a fraud has been played by this Court from 2009 till this year.

8. Statutory Notice for Criminal Contempt to be issued to K.Boopalan and his Power of Attorney agent V.R.Sundher for appearance before the Court on 30.03.2020.

9. In view of these facts, writ petitions in W.P.Nos.9468 of 2009, 8581 of 2015, 437, 442 &



WEB COPY



W.P.Nos.13277 of 2019 etc.

449 of 2020 filed by the Power of Attorney Agent on behalf of the fictitious person by giving a fictitious address, writ petitions are dismissed, a cost of Rs.1,00,000/-, is imposed on V.R.Sundher, to be paid to the Chief Justice Relief Fund on or before 13.03.2020. If he does not pay the cost on or before 13.03.2020, then the Collector, Chennai, may recover the cost through Revenue Recovery Act. Since the writ petitions are dismissed, more specifically, interim orders granted earlier will stand vacated and all the connected miscellaneous petitions are also dismissed.

11. The writ petition in W.P.Nos.13277 of 2019 and 13282 of 2019, petitioner is permitted to get the copy of this order on payment of charges.

24. The first respondent [*The Managing Director and Member Secretary, Chennai Metropolitan Development Authority, Egmore*] has filed a counter affidavit in W.P.No.14368 of 2021, in which, it has been stated that earlier, a petition was received from Tr.R.Loganathan which was forwarded to the Commissioner (Greater Chennai Corporation) and Zonal Executive Engineer (Zone-VI) to take necessary enforcement action against the unauthorised construction by exercising the powers delegated by CMDA and also as per the Madras City Municipal (Corporation) Act, 1919.

25. It is further submitted that the CMDA has not issued any



W.P.Nos.13277 of 2019 etc.

planning permission to the site under reference. The CMDA has delegated powers to all the local bodies within CMDA including the Corporation of Chennai to take action on all types of unauthorised deviations under the provisions of Tamil Nadu Town and Country Planning Act, 1971. He further submits that the same has been forwarded to the Commissioner, Greater, Chennai Corporation and Zonal Executive Engineer (Zone VI) vide Lr.No.EC/NI/11186/2021 dated 24.09.2021 for taking further action.

26. It is case of the petitioner that the Government cannot claim title to the property merely based on a wrong classification of the land as an Anadheenam Neerpidipu (அனாதீனம் நீர்பிடிப்பு) and that the petitioner has full title to the property which is traceable from 1895 and is supported by yet another Settlement Deed dated 11.01.1965 and a Registered Sale Deed dated 11.07.2007. It is stated that in an estate notified under Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948, a Patta can be denied only in respect of communal land and even if patta is refused on the basis of communal land, the land cannot be given to Government entities like TANDGEDCO and other



W.P.Nos.13277 of 2019 etc.

respondents and that it must remain a communal land. The senior counsel referred to the definition in the Estate Land Act, 1908.

27. It is the further contention of the petitioner that the Government has no power to classify a land as Anadheenamn or such classification by itself will confer title on the Government. It is stated that the Government has not submitted any authority which will enable them to claim the land as belonging to them by mere ex-parte classification.

28. The learned senior counsel for the petitioner further states that though the right to property has been taken out of fundamental rights, yet it continues to be a constitutional right protected under Article 300A of the Constitution of India. In this connection, a reliance was placed on the decision of the Hon'ble Supreme Court in **Vidya Devi vs State of Himachal Pradesh**, 2020 SCC OnLine SC 14.

29. The learned senior counsel for the petitioner has also relied on the following decisions:-



WEB COPY



W.P.Nos.13277 of 2019 etc.

- i. **Vidya Devi Vs. State of Himachal Pradesh and others**, 2020 SCC OnLine SC 14.
- ii. **Dhulipalla Ramayya and Another Vs. Kota Brahmayya and others**, 1957 SCC OnLine AP 226 : AIR 1958 AP 100.
- iii. **S.K.M. Muhammed Mustafa Marakayar and others Vs. Udayanachiammal and others**, (1968) 2 MLJ 58 : 80 L.W. 424.
- iv. **Muthukumaraswami Pillai Vs. Srimushnam Vedapatasalai**, (1968) 2 M.L.J. 463.
- v. **Special Commissioner and Director of Survey and Settlement, Chennai – 5 Vs. M.Arumugam**, (2007) 4 MLJ 1201.
- vi. **T.Sekar and others Vs. The Government of Tamil Nadu, Rep. by its Principal Secretary, Department of Housing and Urban Development and others**, 2019-5-L.W. 571.
- vii. **Mr.K.Boopalan Vs. Additional Chief Secretary to Government and Director of Survey and Settlements and others**, dated **28.02.2020**, in W.P.Nos.9468 of 2009 and etc. batch (Madras High Court)

30. The Learned Advocate General appears on behalf of the respondents and submits that the Document No. 1412 of 1895 dated 23.09.1895 produced by the petitioner in this Writ Petition to trace rights over the property is a fabricated document. He has produced as a certified copy of Document No.1412 of 1895 dated 02.08.1895. He submits that Document No.1412 of 1895 pertains to a totally different transaction and is not connected with the documents produced by the petitioner with an



W.P.Nos.13277 of 2019 etc.

identical registration number in Tamil.

WEB COPY

31. It is further submitted that the land in question has been classified as “Sarkar Manavari” meaning (Government Poramboke land) under the provisions of the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948 and thereafter as Anadheenam Neerpidipu indicating abundant land for catchment.

32. The main contention of the respondents was that the Ryotwari Patta which was issued to the said Arun Kumar in the year 2000 in respect of the lands which has been declared as a “Sarkar Manavari” and Anadheenam Neerpidipu even as early as 1972.

33. It is submitted that the Director of Survey and Settlement found that concerned Settlement Officer late Thiru Shanmugam had issued several Pattas illegally based on fabricated documents even though the land were outside the scope of the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948. It is submitted that the Commissioner of Land Administration has issued orders to cancel all the



W.P.Nos.13277 of 2019 etc.

Pattas granted by the individual and to initiate criminal action against the persons involved.

34. It is therefore submitted that there are several disputed questions of fact and therefore, title over the property cannot be decided in this proceeding under Article 226 of the Constitution of India.

35. The learned Advocate General for the respondents relied on the following decisions:-

- i. **Kiliammal and others Vs. State of Tamil Nadu, rep. By its Special Commissioner and others**, dated 29.04.2022, in W.P.Nos.14418 of 2003 and etc. batch.
- ii. **Shri Pratap Singh Vs. Shivaram**, in C.A. No.1511 of 2020.
- iii. **Vishwarijai Bharathi Vs. Fakhrul Hasan and others**, (1976) 3 SCC 642.

36. Heard the learned senior counsel for the petitioner and the learned Advocate General and the learned Standing Counsels for the respondents.

37. The relief as prayed for by the petitioner in these Writ Petitions



W.P.Nos.13277 of 2019 etc.

cannot be granted as *prima facie* the Sale Deed executed in favour of the petitioner on 11.07.2007 pursuant to a Compromise Memo signed on 09.07.2007 between the petitioner's father S.Murugesan / plaintiff with the petitioner's vendors/the defendants in C.S.Nos.196 of 2004 appears to be based on document whose authenticity is in doubt. There is a shadow of doubt over the ownership and *prima facie* a clear title is not discernible.

38. The records which have been filed on behalf of the petitioner and the respondents indicate that a Sale Agreement dated 10.09.2001 was signed between the petitioner's father S.Murugesan and the petitioner's vendors namely, J.R.Arun Kumar, A.Sathiyathan and A.Sadanandan (latter two being former's son).

39. The said J.R.Arun Kumar was aged about 46 years as per the recital in the Agreement for sale dated 10.09.2001. The said J.R.Arun Kumar claimed that the land in question was his ancestral property which was inherited by his father, late Rengasamy Mudaliar, who in turn settled the property in his favour on 11.01.1965 vide registered Document



W.P.Nos.13277 of 2019 etc.

No.41/1965. The said document does not have a proper schedule describing the property with the boundary.

40. The certified copy of the so called registered Settlement Deed dated 11.01.1965 registered as Document No.41/1965 on the file of the Sub Registrar, Pallavaram filed along with the typed set of documents indicate that the petitioner's first vendor namely, J.R.Arun Kumar was a minor aged about 13 years at the time of execution of the Settlement Deed dated 11.01.1965.

41. If the land that was settled in favour of the petitioner's first vendor J.R.Arun Kumar in the year 1965 (the first defendant in C.S.No.196 of 2004 and the first defendant in O.S.No.4312 and 4689 of 2007) when he was a minor aged about 13 at the time of execution of the alleged Settlement Deed by his father Rengasamy Mudaliar, the said J.R.Arunkumar should have aged about 55 at the time of execution of Sale Deed on 11.07.2007.

42. However, the age of the said J.R.Arun Kumar is stated as 51



W.P.Nos.13277 of 2019 etc.

years at the time of execution of Sale Deed on 11.07.2007. There is a mismatch in the age. It does raise cast a shadow of doubt as such mistakes are normally made by inadvertence when documents are fabricated.

43. The description of the property in the aforesaid Settlement Deed is vague. It merely declares that an extent of 1.70 acres in T.S.No. 21, Old S.No. 6/8 of Kolathur Village with no boundaries was being settled. It merely gives the extent and the survey number.

44. The total extent of land in T.S.No. 21, Old S.No. 6/8 of Kolathur Village could be much larger and therefore, it cannot necessarily mean that the land in respect of which the petitioner claims title is the land under the two Settlement Deeds.

45. Curiously, the Assistant Settlement Officer of Thiruvannamalai R.Shanmugam issued a Settlement Patta on 27.06.2000 in favour of the petitioner's first vendor J.R.Arun Kumar long after the land stood vested with the Government under Notification issued under the provisions of



W.P.Nos.13277 of 2019 etc.

Tamil Nadu Estates (Abolition and Conversion Into Ryotwari) Act, 1948.

WEB COPY

46. By a communication dated 26.06.2008, the Special Commissioner and Commissioner of Land Administration has taken a firm decision pursuant to Letter No.K1/36249/06 dated 28.05.2008, wherein, all the Collectors were instructed to enter lands where fraudulent orders were passed by the Assistant Settlement Officers of Thiruvannamalai, Thanjavur, Madurai and Dharapuram and were further directed to prevent further changes in Village Accounts.

47. The Special Commissioner of land Administration also informed that the District Collectors have been given instructions to not to entertain claim for transfer of registration on the basis of the fraudulent orders of Assistant Settlement Officers of Thiruvannamalai, Thanjavur, Madurai, Dharapuram.

48. After the suit was decreed in C.S.No.196 of 2004 on 13.07.2007, pursuant to a compromise stitched between the petitioner's father and his three vendors namely, J.R. Arunkumar and latter two sons



W.P.Nos.13277 of 2019 etc.

A.Sathianathan and A.Sadanandan on 09.07.2007 and subsequent to the execution of Sale Deed dated 11.07.2007, the petitioner appears to have applied for a name transfer in the Patta and for mutation of land records.

49. The petitioner vide letter dated 01.10.2008 appears to have sought for information from the Director of Survey and Settlement relating to Letter bearing reference No.RC/D2/15183/1995 dated 28.07.1995 of the Director of Survey and Settlement. Letter dated 01.10.2008 of the petitioner reads as under:-

Sub: Petition – Chennai District – Perambur – Puraswalkkam Taluk- Kolathur Village – S.No.6/8 – Extent 1.78 Acres – Patta granted by settlement officer, Thanjavur – suo moto under Section 5(2) of Tamil Nadu Estate (Abolition & Conversion in to Ryotwari) Act 26/48-requested- Regarding.

Ref: 1) RC/D2/15183/1995 of the Director of Survey and Settlement: Chennai – 5 dated 28.07.1995.

2)Petition of M.Kangeyan S/o.S.Murugesan Chennai-2 dated 24.04.2008.

3) Office Endorsement dated 03.06.2008 made in RC.H1/3320/2008 by the Principal Commissioner and Director of Survey and Settlement, Chepauk, Chennai – 5.



W.P.Nos.13277 of 2019 etc.

Kindly furnish the certified copy of the order under reference one from your file for the purpose of complying with the endorsement direction under reference three cited.

50. Reference Nos.1 & 3 to the above Letter filed by the respondents indicate that the Director of Survey and Settlement, Chennai in the said proceedings has referred to a Revision Petition filed by Thiru.A.P.Shankar, General Power of Thiru.Bhoobalan who had claimed Patta under Section 11(A) of the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948, for the very same land in S.No.6/8 (1.70 Acres) of Kolathur Village, Perambur and Pureswalkam Taluks of Madras District.

51. The claim of the said Thiru.Bhoobalan was through a General Power Thiru.A.P.Shankar. Relevant portion of the said communication is detailed below:-

This is a revision petition filed by one Thiru.A.P.Shankar, General Power of Thiru Bhoobalan claiming ryotwari patta under Sec.11(a) of the Act XXVI/1948 in respect of S.No.6/8 (1.70



WEB COPY



W.P.Nos.13277 of 2019 etc.

Acres) of Kulathur Village, Perambur and Pureswalkam Taluks of Madras District.

The village in question was taken over on 01.10.1951 under the provisions of Act XXVI/48, and settlement was introduced. During the settlement the said land was treated as 'Anadheenam'.

It is seen from the documents furnished by the petitioner that the land was owned by Raju Mudaliar through Court auction in the year 1903 and it was registered on 12.12.1904 in sale deed 1511/1904. The survey number was correlated to Paimash No.736. The petitioner has stated that after the demise of Raju Mudaliar his wife Paripuranammal was enjoyed the land till her death i.e., (1962) and that after Paripooranathammal expired their Son P.R.V.Kumar was enjoying the land till her death on the year 1977. He has stated after the death of P.R.V.Kumar, in the year 1977 through family partition the land was came into share of his Principle (Thiru.Bhoobalan). The petitioner has contended that during the settlement operation no notice was issued predecessors in title and enquiry made before deciding the character of the land, though the land has been effective enjoyment of the successors of Thiru.Raju Mudaliar till date. He has also contended that the land is correctly attracting Section 11(a) of the XXVI/48 and that the land was effective enjoyment and included in the holding of the ryot prior to the notified date. He has stated that after came to knowledge he has approached the A.S.O. Tiruvannamalai and S.O.Thanjavur. But the S.O.Thanjavur has returned the petition as the settlement work has already been completed. The petitioner has stated that there is no delay in the claim as he has applied for Settlement authority



WEB COPY



W.P.Nos.13277 of 2019 etc.

after it came to his knowledge about the treatment of the land. He has therefore prayed to issue order to lower authority to consider his claim with proper enquiry.

It is an admitted fact from the records produced by the petitioner that the land was old pattaryoti land and happened to be classified as 'Anadheenam' as a result of the failure of the pattadarj claim for patta.

In the above circumstances stated above, the S.O.Thanjavur is requested to examine this case on merits and dispose it accordingly after observing usual formalities.

52. The petitioner claims to have received an enquiry Notice dated 05.01.2009 fixing the enquiry on 19.01.2009 at about 2.30 p.m. after the time expired. The petitioner therefore replied on 22.01.2009. By another communication dated 28.01.2009, the petitioner was thereafter called to come for an enquiry on 18.02.2009 at 11.00 a.m.

53. In the said letter dated 22.01.2009, the petitioner however distanced himself from the above stated that letter dated 01.10.2008 soliciting the information and stated that the said request was not sent by him.

54. Meanwhile, by an order dated 28.02.2020, W.P.No.9468 of



W.P.Nos.13277 of 2019 etc.

2009, W.P.No.8581 of 2015 and W.P.Nos.437, 442 & 449 of 2020 filed by the said Bhoopalan in respect of the same land were disposed of. In the said proceeding, the said Bhoopalan was represented by his Power Agent named V.R.Sundher.

55. This Court has ordered Criminal Contempt against Power Agent of Bhoopalan named V.R.Sundher. It has been concluded that the said Bhoopalan himself appears to be a fictitious person. Thus, there is an attempt to corner a part of land in S.No.6/8 (1.70 Acres) of Kolathur Village, Perambur and Pureswalkam Taluks of Madras District which had remained unclaimed for almost half a century after 1948 Act was enacted. It was perhaps a water body that has dried on account of rapid urbanization in the last 5 decades.

56. The facts on record also indicate that the said Boobalan himself has filed O.S.No.4312 of 2007 and O.S.No.4689 of 2007. These Suits are pending before the V Assistant Judge, City Civil Court, Chennai, wherein, the petitioner's first vendor J.R.Arun Kumar, the petitioner's father S.Murugesan and the petitioner's uncle S.Kumaravel are



W.P.Nos.13277 of 2019 etc.

themselves defendants. These two suits were ordered to be heard before the V Assistant Judge, City Civil Court, Chennai. The outcome of these two suits is awaited.

57. That apart, O.S.No.5116 of 2007 was filed before VI Assistant Judge, City Civil Court by one V.M.Yoosuf along with others, for a permanent injunction against the said K.Bhoopalan. In the said proceedings, the petitioner himself was arrayed as the second defendant. The Suit was however dismissed for default on 25.06.2009.

58. That apart, O.S.No.6943 of 1995 was filed by Arulmighu Somanathaswamy Kovil (a temple) for a declaration of title and for a permanent injunction in respect of the same property against the said Bhoobalan. The suit was also dismissed by the V Assistant Judge, City Civil Court, Chennai vide Judgment and Decree dated 30.06.2005.

59. A careful perusal of the records reveals that the subject land was classified as “Anadheenam - Neerpidi” in the Land Register indicating the character and nature of the land to be a water body and



W.P.Nos.13277 of 2019 etc.

some time back classified as a “Sarkar Mannavari” implying Government Poromboke Land. The above classification of lands attains significance.

60. There appears to be a large scale of attempt by different persons to corner a land unclaimed which was left as an orphan land. The fact that the classification of the land was as Anadheenam Neerpidipu and as “Sarkar Manavari” prior to the Settlement Patta being granted to the petitioner’s vendor J.R.Arunkumar in 2000 and that there are rival claims, indicates that there has been a concerted effort by private parties to corner the land taking advantage of the loop holes in the implementation of Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948.

61. After the Tamil Nadu Estates Land Act, 1908 was enacted, the estate lands were vested with the Government and upon such vesting, it is imminent for the land owners to obtain Ryotwari Patta from the competent authority. Until then, alienation to the third parties is completely prohibited.

62. In the present case, the Special Commissioner and



W.P.Nos.13277 of 2019 etc.

Commissioner of Land Administration vide Letter dated 12.04.2007 had instructed the District Collectors regarding the list of fraudulent Ryotwari Pattas given by the Assistant Settlement Officer, R. Shanmugam to submit a certificate to the effect that no entries have been made in the land records and that these Government lands are encroachment free and to prevent any unlawful transactions in furtherance to the said Pattas. The execution of the Sale Deed by the said J.R.Arunkumar to the petitioner has happened on 11.07.2007 subsequent to the aforesaid finding which creates suspicion.

63. The fact that the property remained unclaimed right after the enactment of 1948 till 1995, also raises a serious doubt as to whether indeed there was either possession enjoyed by the predecessor of J.R.Arunkumar (the first vendor of the petitioner) over the land notwithstanding the fact that there is a subsequent Settlement Deed in the year 1965. It remains to be established that the Settlement Deed dated 11.01.1965 executed by Rangasamy Mudaliar in favour of his son, J.R.Arunkumar the first vendor of the petitioner was indeed in respect of the same property as there is no boundary. It is quite possible that same



W.P.Nos.13277 of 2019 etc.

extent of land was earlier transferred by J.R.Arunkumar.

WEB COPY

64. Further, a copy filed along with typed set indicates that the document was filed in O.S.No.4312 of 2007 and O.S.No.4689 of 2007 which are pending before V Assistant, City Civil Court, Chennai. It appears that the same document was also filed in O.S.No.5116 of 2007 filed by V. Yoosuf.

65. That apart, it is noticed that the so-called Settlement Deed dated 23.09.1895 registered as Doc.No.1412/1895 was entered on a stamp paper for Twelve Annas. The said document would have been subjected to the stamp duty under the provisions of the General Stamp Act, 1869 as it stood then.

66. The expression “Settlement” has been defined in Section 3(32) of the General Stamp Act, 1869. It reads as under:-

3. Interpretation – Clause – *In this Act and the first and second schedules hereto annexed, unless there be something repugnant in the subject or context,-*
(1)



WEB COPY



W.P.Nos.13277 of 2019 etc.

.....
(32). 'Settlement' means any instrument (other than a Will) whereby the destination or devolution of moveable or immoveable property is settled or agreed to be settled.

67. Stamp duty to be paid by the settlor for settling the property would have been in terms of I Schedule to the General Stamp Act, 1869. Sl.No.5 and Sl.No.14 in I Schedule to the General Stamp Act, 1869 are reproduced below:-

SCHEDULE – I.

Description of Instruments		Proper Stamp Duty			
		Rs.	A.	P.	
5	BOND for any specified amount, other than an Administration Board	When the amount secured does not Exceed 25	0	2	0
		When such amount exceeds Rs.25 but does not exceed Rs.50 ...	0	4	0
		When such amount exceeds Rs.50 but does not exceed Rs.100 ...	0	8	0
		<u>For every Rs.100 or part thereof in excess of Rs.100 up to Rs.1,000</u>	0	<u>8</u>	0
		For every Rs.500 or part thereof in excess of Rs.1000 up to Rs.10,000	2	8	0



W.P.Nos.13277 of 2019 etc.

Description of Instruments		Proper Stamp Duty		
		Rs.	A.	P.
	For every Rs.1000 or part thereof in excess of Rs.10000 up to Rs.30,000	2	8	0
	And for every Rs.10,000 or part thereof in excess of Rs.30,000 ...	12	8	0
14 Settlement		The Stamp-duty with which a Bond for the amount value or value of the property thereby settled is chargeable (No.5)		

68. A reading the above indicates that the settlor would have paid the stamp duty at 2 Annas, 4 Annas and 8 Annas depending upon the value of the property or with a Bond equivalent to the specified amount as in Sl.No.5.

69. However, if the value of the property exceeded Rs.100/-, for every Rs.100/- or part thereof in excess of Rs.100/- up to Rs.1,000/-, the



W.P.Nos.13277 of 2019 etc.

stamp duty an addition of 8 Annas was to be paid. Thus, the stamp duty to be paid would have been 16 Annas or a Rupee as during the period, 16 Annas was equivalent to 1 Rupee. 12 Annas would be equivalent to $\frac{3}{4}$ th of one Rupee in 1895.

70. These factors raise a doubt as to whether the said Instrument / Settlement Deed which is said to have been executed on 23.09.1895 by Murugappa Mudaliar in favour of his son Jegatheesa Mudaliar was a genuine document at all.

71. The photocopy of the stamp paper in the Settlement Deed dated 23.09.1895 further depicts a picture of a Monarch viz., George-V. However, George-V was born only on 1865 and died in 1936. Further, during 1895, British Kingdom was under the reign of Queen Victoria (1819 – 1901). It is therefore unlikely that the stamp paper would bear and depict the picture of King George-V. That apart, the stamp paper has “Devanagiri Script”, whereas , in the Madras presidency, English Script would have been used.



W.P.Nos.13277 of 2019 etc.

WEB COPY

72. Therefore, there is doubt as to whether the document was if at all executed on account of the fact that payment of rounded figure of 12 Annas appears to be improbable as the document does not give the valuation of the property.

73. That apart, the respondent, after verifying with the Registration Department vide letter dated 27.07.2022, has produced another document dated 23.09.1895 with the same Doc. No. 1412 of 1895. The said document produced by the respondent indicates a totally different subject document and is not related to the land in the Kulathur Village.

74. If the land has been taken over under the provisions of the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948, the land vests with the Government. If it was a temple land, it was open for the temple to exert its right over the land under the Provisions of the HR & CE Act, 1959 or under the provisions of the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963. If it was in the possession of a ryoti, the possession was to be regularized under the



W.P.Nos.13277 of 2019 etc.

provisions of the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948.

75. As per Section 6(3) of the General Stamp Act, 1869, in absence of an agreement to the contrary, the expense of providing the proper stamp was to be borne by the settlor in the case of a settlement. Section 6(3) of the General Stamp Act, 1869 as it stood then read as under:-

6. Duties by whom payable – *In the absence of an agreement to the contrary, the expense of providing the proper stamp shall be borne –*

1st

.....

3rd – In the case of a settlement, by the settlor;

76. It is also a well settled principle of law that the subject land should fall into the ambit of the definition in Section 3(15) and (16) as ‘ryot’ and ‘ryoti land’ of the Madras Estates Act, 1908 for grant of a Ryotwari Patta under the provision of the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948.

77. The subject land should satisfy the characteristic of “ryoti land”



W.P.Nos.13277 of 2019 etc.

under the said Act. It was not only necessary for the parties to prove the title over the subject land but should also prove that the subject land is an agricultural land. However, without an iota of evidence that the land was a “ryoti land”, a Ryotwari Patta was granted in 2000.

78. Section 3(15) and (16) of the Madras Estates Act, 1908 read as follows:-

<i>Section 3(15)</i>	<i>Section 3(16)</i>
“<i>Ryot</i>” means a person who holds for the purpose of agriculture ryoti land in an estate on condition of paying to the landholder the rent which is legally due upon it. <i>Explanation.</i> - A person who has occupied ryoti land for a continuous period of twelve years shall be deemed to be a ryot for all the purposes of this Act.	“<i>Ryoti Land</i>” means cultivable land in an estate other than private land but does not include:- - beds and bunds of tanks and of supply, drainage, surplus or irrigation channels; - threshing-floor, cattle-stands, village-sites and other lands situated in any estate which are set apart for the common use of the villagers; - lands granted on service tenure either free of rent or on favourable rates of rent if granted before the passing of this Act or free of rent if granted after the date, so long as the services tenure subsist.”

79. The Hon’ble Supreme Court in **P.Venkataswami&Anr. Vs D.S.Ramireddy&Anr**, 1976 (3) SCC 665 has held that a landholder claiming Ryotwari Patta must prove that he has been cultivating the land



W.P.Nos.13277 of 2019 etc.

by himself or by his own servants from July, 1945 and is in continuous
with possession of the said lands.

80. This Hon'ble Court, while dealing with a similar issue in hand,
in the case of **Kiliammal and Ors vs. The State of Tamil Nadu and
ors**, vide order dated 29.04.2022, in W.P.Nos.14418 of 2003 and etc.
batch, held as follows:

“111.In the case on hand, all the petitioners claim possession since 1914, the ancestors of the petitioners having purchased the subject lands from one Vedammal. However, neither Vedammal nor their alleged successor-in-title have claimed patta even after the introduction of the Ryotwari Act. Koyambedu Village was taken over under the Madras Estates (Abolition & Conversion into Ryotwari) Act, vide G.O. Ms. No.3157, Revenue, dated 9thDec., 1951. It is the case of the respective petitioners that they were in occupation of the lands and upon vesting of the lands, no steps have been taken by the petitioners to obtain ryotwari patta from the competent authority. The petitioners have not pleaded ignorance of the vesting of the property under the Madras Estates (Abolition & Conversion into Ryotwari) Act. Their ignorance is only insofar as the acquisition proceedings are concerned. That being the case, the petitioners have been oblivious of the vesting of the lands in the Government and, therefore, they should have taken necessary steps to obtain ryotwari patta at the earliest point of time.



WEB COPY



W.P.Nos.13277 of 2019 etc.

However, only after a period of 45 years, in the year 1996, the petitioners have sought for ryotwari patta, at which point of time, the land has lost its character of a ryoti land.

112.In the aforesaid backdrop, after a passage of around four and a half decades, for the first time the petitioners in W.P. No.14418/03 have come before the Assistant Settlement Officer seeking grant of ryotwari patta. In respect of the takeover of the lands under the various Ryotwari Acts, which are decades old, the post of Settlement Officer/Assistant Settlement Officer are still being continued by the Government for issuance of patta. As already noted above, by now, the lands, which stood vested, would have lost its character as ryoti lands, irrespective of the place of acquisition and that being the case, this Court is at a loss to understand as to the need for maintenance of the various Ryotwari enactments still as a statute, when the said enactments have outlived their life and would no longer be necessary. Keeping the said enactments alive is nothing but aiding the breeding of corruption, as frivolous petitions are filed seeking issuance of ryotwari patta and unmindful of the provisions of law and without taking into consideration the character of the lands, on the present date, ryotwari patta is being issued by the Assistant Settlement Officer/Settlement Officer.

113.This case is one of a classic kind, where the petitioners have gone the Settlement Officer/Assistant Settlement Officer after a few decades seeking ryotwari patta and the said request has been entertained by the Assistant Settlement Officer/Settlement Officer unmindful of Section 3 (15) and (16) of the Tamil Nadu Estate Land Act, 1908 with regard to ryoti lands. Needless to say that



WEB COPY



W.P.Nos.13277 of 2019 etc.

the act of the Assistant Settlement Officer and the Settlement Officer is not only not in the spirit of law, but it is a clear depiction of total non-application of mind and abdication of their duties and responsibilities to the various provisions of law, which could be nothing but an act to breed corruption of highest standards.”

81. Further, the question of granting a Ryotwari Patta for a land which is admittedly within the purview of densely populated urban area also cannot be countenanced. A proof regarding of cultivation is a *sine qua non* for grant of a Ryotwari Patta under the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948. Therefore, the Patta granted in favour of the petitioner's first vendor J.R.Arun Kumar in 2000 cannot be accepted.

82. Further, once the land was notified under the provisions of the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948, a claim should have been made by a person in possession within the time.

83. As per Notification in G.O.(Ms).No.367 dated 12.02.1955, a



W.P.Nos.13277 of 2019 etc.

method was devised for taking possession of the land under proviso to Section 3(d) of the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948. The possession of the land would have come to the Government. If it was to be questioned, it was to be questioned within the limitation prescribed.

84. In the case on hand, a perusal of the affidavit filed by the petitioners reveals that the land is stated to be the ancestral property of the petitioner's vendors J.R.Arunkumar which was supposedly owned by his great grandfather Murugappa Mudaliar. The said land is allegedly purchased by the said Murugappa Mudaliar in the year 1895. After Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948 came into force in 1948 till 2000, no steps were taken to establish a right. Only after 30 years from the date on which the subject land was classified as "Sarkar Manavari", the petitioner's first vendor J.R. Arunkumar applied for a Patta for the said land while rival claims were pending being made.

85. Considering the fact that the temple had also attempted to exert



W.P.Nos.13277 of 2019 etc.

its rights over the land by filing a suit in O.S.No.6943 of 1995, the HR & CE, Department represented by its Principal Secretary is *suo motto* impleaded as the eighth respondent in W.P.No.14368 of 2019 and as the seventh respondent in W.P.Nos.13277, 13282 & 13294 of 2019. The rights of the party will be subject to proper determination.

86. In view of the fact that there are rival claims over the land by the temple and by Bhoobalan through his Power of Attorney Mr.A.P.Shankar and later through Thiru.V.R.Sunder and in the light of the fact that the suit was filed by the petitioner's father for specific performance which was compromised without any contest, I am of the view that there is no clear title over the land.

87. Thus, there is a shadow of doubt and a cloud of suspicion over the document produced as Settlement Deed dated 23.09.1895 through which the petitioner claims rights over the subject land in these Writ Petitions.

88. Even though, the land was said to have been owned by the



W.P.Nos.13277 of 2019 etc.

petitioner's vendor's great grandfather Murugappa Mudaliar which was later settled in the year 1965 by the petitioner's vendor's father in favour of the petitioner's first vendor, the title needs to be established that there was a clear title.

89. The fact that there was no claim made earlier within a period of limitation prescribed under the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948 and extension granted by the Government orders *prima facie* shows that the claim of the petitioner's land may not be *bonafide*.

90. Therefore, there is a *prima facie* doubt as to whether the documents which have been filed by the petitioner which are shown to have been filed in the above mentioned Suits are genuine documents. Therefore, the petitioner has to establish a clear title over the land. Without a clear title over the land, the petitioner is not entitled for the remedy sought for.

91. Considering the fact that there are several disputed questions of fact and there is no clear title in favour of the petitioner, I am inclined to



W.P.Nos.13277 of 2019 etc.

dismiss these Writ Petitions. I however leave it open for the petitioner to establish a clear title over the property from his predecessors time by filing a proper and appropriate proceedings before a Court of a Competent Jurisdiction or a Competent Authority in a manner known to law and in accordance with law. All further rights of the petitioner and the respondents will be subject to outcome of such proceedings if the petitioner so chooses.

92. These Writ Petitions are dismissed with the above observations. No cost. Consequently, connected Miscellaneous Petitions are closed.

09.11.2022

Internet : Yes/No

Index : Yes / No

Jen

To

- 1.The Secretary,
Revenue [LD5(2)] Department,
The State of Tamilnadu
Fort St.George,Chennai – 600 009.
- 2.The Secretary, Energy Department,
Fort St.George, Chennai – 600 009.
- 3.The Chairman and Managing Director,



W.P.Nos.13277 of 2019 etc.

The TANGEDCO, No.144, Anna Salai, Chennai 600 002.

- 4.The Secretary,
Backward, Most Backward Classes & Minority Welfare Department,
Fort St.George, Chennai – 600 009.
- 5.Director of Backward Classes and Minorities Welfare,
Chepauk, Chennai – 600 005.
- 6.The Secretary,
Municipal Administration and Water Supply Department,
Fort St.George, Chennai – 600 009.
- 7.The Chairman,
Chennai Metropolitan Water Supply and Sewerage Board,
No.1, Pumping Station Road,
Chintadripet, Chennai – 600 002.
- 8.The District Collector of Chennai,
Office of the Collectorate, Rajaji Salai, Chennai – 600 001.
- 9.The Commissioner for Land Administration
Chepauk, Chennai – 600 005.
- 10.The Tahsildar, Ayanavaram, Chennai – 600 023.
- 11.The Principal Secretary,
H.R. & C.E. Department, Secretariat,
Fort St. George, Chennai 600 009.
- 12.The Commissioner,
Corporation of Greater Chennai,
Rippon Buildings, Chennai – 600 003.

C.SARAVANAN, J.

Jen



WEB COPY



W.P.Nos.13277 of 2019 etc.

Pre-Delivery Common Order
in
W.P.No.13277, 13282 & 13294 of 2019
&14368 of 2021 and W.M.P.Nos.13399,
13395, 13381, 13383, 13401 & 13403
of 2019 and 5280 & 15282 of 2021

09.11.2022