



W.P.No.34907 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.08.2022

CORAM :

**THE HONOURABLE MR. JUSTICE M. DHANDAPANI**

**W.P.No.34907 of 2019**  
**and W.M.P.No.35695 of 2019**

- 1.Kuppammal
- 2.Thangavelu
- 3.Murugammal
- 4.Rani
- 5.Santhanam
- 6.Mahalakshmi
- 7.Rasammal
- 8.Minnala
- 9.Lakshmi
- 10.E.Kesavan
- 11.Ellammal
- 12.Mahalakshmi
- 13.Senthilkumar
- 14.Kasthuri
- 15.Vasantha



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16.Sundaram

17.Paramasivam

18.Kuppammal

19.Suseela

20.Thilagavathi

21.Amutha

22.Lakshmi

23.Venkatesan

24.Ravikumar

25.Dhanabakkiyam

26.Nirmala

27.T.Kumaran

*(the 27<sup>th</sup> petitioner is one of the legal heirs  
and Power Agent for 1 to 25 petitioners)*

Vs.

... Petitioners

1.The State of Tamil Nadu Rep. by

Principal Secretary,

Housing and Urban Development [UD3(1)] Department,

Fort St.George, Secretariat,

Chennai – 600 009.

2.The Member Secretary,

Chennai Metropolitan Development Authority,

Egmore, Chennai – 600 008.

3.The Special Tahsildar,

Land Acquisition,

Maraimalai Nagar Scheme.

... Respondents



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**Prayer :** Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records relevant to the order in Letter (Ms) No.175 dated 11.11.2019 passed by the 1<sup>st</sup> respondent and quash the same as illegal, improper, unreasonable, arbitrary and against the principles of natural justice and thereby direct the respondents to re-convey the land comprised in S.Nos.10/1 to 10/9 having total extent of acre 1.66 cents at Ninakarai Village, Maraimalai Nagar, Chengalpet Taluk within a stipulated period.

|                 |   |                                                                                                            |
|-----------------|---|------------------------------------------------------------------------------------------------------------|
| For Petitioners | : | Mr.B.Gopalakrishnan                                                                                        |
| For R1 & R3     | : | Mr.R.Kumaresan<br>Additional Advocate General<br>Assisted by Mr.P.Sathish<br>Additional Government Pleader |
| For R2          | : | Mr.R.Kumaresan<br>Additional Advocate General<br>Assisted by Mr.P.Veena Suresh                             |

### **ORDER**

This Writ Petition has been filed to quash the order in Letter (Ms) No.175 dated 11.11.2019 passed by the first respondent and also to direct the respondents to re-convey the land comprised in S.Nos.10/1 to 10/9 within a stipulated period.



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2.The case of the petitioners is that originally one Appu and Mariammal have purchase the property comprised in S.Nos.10/1 to 10/9 totally to an extent of 1.66 acres through the Sale Deed in Doc.No.1634/1917 and Sale Deed in Doc.No.510/1923 from their vendors. Appu and Mariammal were dead on 13.02.1965 and 04.06.1972 respectively and they leaving behind their legal heirs viz., Thulukanam, Veerammal, Arjunan and Dhanabakkiyam. The petitioners land were acquired by the Government of Tamil Nadu by notification dated 22.10.1977 for the purpose of Maraimalai Nagar Satellite City.

(i)According to the petitioners, the respondents acquired the land in the same area belongs to one Varadaraja Naicker and he approached this Court and filed a Writ Petition in W.P.No.11697/1987 challenging the acquisition proceedings and the same was dismissed. Against the same, the said Varadaraja Naicker filed a Writ Appeal in W.A.No.2254 of 2001 and the same was allowed by the Hon'ble Division Bench of this Court.

3.Learned counsel for the petitioners submitted that the petitioners sent a representation to the respondents with a request to re-convey their land, but no action was taken by the respondents. The petitioners and others filed a



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Writ Petition in W.P.No.14607 of 2018 and the same was disposed with a direction to the respondents to consider the petitioners' representation dated 03.03.2018 and 08.05.2018. According to him, as the respondents have not obeyed the order of this Court made in W.P.No.14607 of 2018 and the petitioners filed a Contempt Petition No.1915 of 2019 and the same is pending. During the pendency of the contempt proceedings, the respondents, in order to escape from the contempt proceedings, hurriedly passed the present impugned order by rejecting the request of the petitioners. Hence, the present Writ Petition has been filed.

4.Learned Additional Advocate General appearing for the respondents would submit that the issue raised in this Writ Petition is no longer *res integra* and is already settled by the Hon'ble Apex Court in the case of ***T.N.Housing Board vs. Keeravani Ammal and Others*** reported in **2007 (2) CTC 447** and therefore this petition may be dismissed.

5.Heard learned counsel for the petitioners and learned Additional Advocate General appearing for the respondents and perused the materials available on record.



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6.A perusal of the facts and the relief sought for reveal that the issue is squarely covered by the decision of the Hon'ble Supreme Court in Keeravaniammal's case cited supra **(2007 (2) CTC 447)**, wherein the Hon'ble Apex Court held that once a land is acquired for public purpose, it is for the Government to decide whether the land is to be utilized for the said public purpose or to use it for any other purpose. Merely because the land has not been utilized for the said public purpose, the Government cannot be forced to part with the acquired land by invoking the provisions of Section 48 B of the Act, 1894.

7.In view of the ratio laid down above, the prayer sought for by the petitioners cannot be granted by this Court. Accordingly, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No  
Speaking order : Yes / No  
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To  
WEB COPY

- 1.The Principal Secretary,  
Housing and Urban Development [UD3(1)] Department,  
Fort St.George, Secretariat,  
Chennai – 600 009.
- 2.The Member Secretary,  
Chennai Metropolitan Development Authority,  
Egmore, Chennai – 600 008.
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**M.DHANDAPANI, J.**

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