



W.P.Nos.3555, 3572, 3561 and 3566 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2023

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition Nos.3555, 3572, 3561 and 3566 of 2023
and W.M.P.Nos.3617, 3618, 3621, 3622, 3623,
3624, 3631 and 3633 of 2023

M.V.Nagappan	...	Petitioner in W.P.3555/2023
Lavanya	...	Petitioner in W.P.3572/2023
Sundarambal	...	Petitioner in W.P.3561/2023
Kalaivani	...	Petitioner in W.P.3566/2023

-Vs-

- 1.The Secretary
Housing and Urban Development
Department, Fort St.George
Chennai 600 009.
- 2.The Special Tahsildar (Land Acquisition)
Tamil Nadu Housing Board
(Salem Housing Board Division)
Aiyyanthiru Maaligai, Opp to
Collector Bungalow, Salem-636 008.
- 3.The Tahsildar (Land Acquisition)
Salem Housing Board
Neighbourhood Scheme
Aiyyanthiru Maaligai, Opp to
Collector Bungalow, Salem-636 008.
- 4.The Executive Engineer and
Administrative Officer
Tamil Nadu Housing Board
(Salem Housing Board Division)
Salem – 636 008.



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5.The Joint II Sub-Registrar
Salem (West), District Registrar Office
Collector Office Complex, 3rd Floor
Salem – 636 008.

.... Respondents

Prayer in W.P.No.3555/2023 : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records in impugned Letter No. Ne. A. 1 / 4280/ 03 dated 23.11.2020 on the file of the 4th respondent and to quash the same and consequentially direct the 5th respondent to entertain registration of transactions relating to the property in D.No. 737 / 1981 bearing Plot No. 10 measuring an extent of 1180 Sqft Comprised in S.Nos. 95/2 Ayyanperumal Patti Village, Salem District.

Prayer in W.P.No.3572 /2023 : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records in impugned Letter No. Ne. A. 1 / 4280/ 03 dated 23.11.2020 on the file of the 4th respondent and to quash the same and consequentially direct the 5th respondent to entertain registration of transactions relating to the property D.No. 2348 / 2020 measuring an extent of 765 Sqft Comprised in S.Nos. 95/2 95/3 bearing Plot No.38 Ayyanperumal Patti Village Salem District.

Prayer in W.P.No.3561/2023 : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records in impugned Letter No. Ne. A. 1 / 4280/ 03 dated 23.11.2020 on the file of the 4th respondent and to quash the same and consequentially direct the 5th respondent to entertain registration of transactions relating to the property in D.No. 4727 / 2011 measuring an extent of 2062 1/2 Sqft Comprised in S.Nos. 95/2 95/3 94/4 bearing Plot No. 37 Ayyanperumal Patti Village Salem District.



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Prayer in W.P.No.3566/2023 : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records in impugned Letter No. Ne. A. 1 / 4280/ 03 dated 23.11.2020 on the file of the 4th respondent and to quash the same and consequentially direct the 5th respondent to entertain registration of transactions relating to the property (i) D.No. 3158 / 2007 bearing Door No. 5 Ayyanperumal Patti Village measuring an extent of 1200 Sqft Comprised in S.Nos. 94/4 and 98/2 (ii) Doc. No. 1705/2011-Property measuring an extent of 1200 Sqft Comprised in S.Nos. 95/2 95/3 94/4 of Ayyanperumal Patti Village Salem District (iii) Doc. 3159/2007-Property bearing Plot No. 36A measuring an extent of 120 Sqft comprised in S.Nos. 95/2, 95/3, 94/4 Ayyanperumal Patti Village Salem District.

In all W.Ps.

For Petitioner : Mr.P.Elayaraj Kumar
for M/s.Ramalingam and Associates

For Respondents : Mr.P.Sathish
Additional Government Pleader
- for RR 1 to 3 and 5
Mr.A.M.Ravindranath Jeyapaul
for R4

COMMON ORDER

Since the issue raised in all these writ petitions is one and the same, with the consent of the learned counsel for both sides, these writ petitions were heard together and disposed of by this common order.



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2. Learned counsel for the petitioner, learned Standing Counsel for the Tamil Nadu Housing and Urban Development Department, as well as the learned Additional Government Pleader appearing for the State Government would contend that the issue raised in these writ petitions is covered by the decision of this Court in the common order passed on 15.02.2023 in W.P.No.3762 of 2023 etc., batch of writ petitions. In the said batch of cases, having considered the issue raised in these writ petitions which has already been raised in those writ petitions, I have passed the following order.

" 11. As has been rightly pointed out by the learned counsel appearing for the petitioners that though the 5-A enquiry was set aside by the Division Bench of this Court and liberty was given to the respondents to proceed with the 5-A enquiry afresh and a time limit also has been prescribed i.e., six months period, nothing has come from the respondents and admittedly no 5-A notices have been given and this is evident from the latest communication given by the Special Tahsildar dated 28.01.2020 under the RTI Act and the content of the said communication has already been extracted herein above, which disclosed that as per the order of the Division Bench within six months, no notice has been given and no proceedings have been initiated under 5-A enquiry.

12. When that being so, at this length of time, the Tamil Nadu Housing Board cannot seek any claim over the property in question. Therefore, the letter sent on 23.11.2020 to the Sub-Registrar could no



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way impact the Sub-Registrar from entertaining the document presented by these petitioners for registering the same provided if the documents in question are otherwise in order.

13. In that view of the matter, this Court is inclined to dispose of these writ petitions with the following order:

That there shall be a direction to the fifth respondent i.e., Joint-II Sub-Registrar, Salem (West) to entertain the document presented by the respective petitioners for the purpose of registration, if the documents are otherwise in order without insisting any NOC from the Tamil Nadu Housing Board and without citing that reason as one of the reasons for refusing the registration, the Sub-Registrar i.e., Registering Authority shall proceed to register the document in question and the needful as indicated above shall be undertaken by the Sub-Registrar within a period of eight (8) weeks from the date of receipt of a copy of this order.”

3. Since the issue has been settled and final orders have been passed in the said batch of writ petitions and the present issue raised in these cases also is covered by the said factual matrix as well as the legal position, this Court has no hesitation to hold that the same orders can be made applicable to the present cases also. Accordingly, the following orders are passed.

“That there shall be a direction to the fifth respondent i.e., Joint-II Sub-Registrar, Salem (West) to entertain the document presented by the respective petitioners for the purpose of



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registration, if the documents are otherwise in order without insisting any NOC from the Tamil Nadu Housing Board and without citing that reason as one of the reasons for refusing the registration, the Sub-Registrar i.e., Registering Authority shall proceed to register the document in question and the needful as indicated above shall be undertaken by the Sub-Registrar within a period of eight (8) weeks from the date of receipt of a copy of this order.”

4. With the above directions, these writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

28.02.2023

Index : Yes/No
Neutral Citation : Yes/No
Speaking Order / Non-speaking order
KST



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To

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These writ petitions have been listed under the caption 'for being mentioned' at the instance of the learned counsel appearing for the petitioners.

2. Under the common order dated 28.02.2023, four writ petitions were disposed of including the writ petition in W.P.No.3566 of 2023, where based on the prayer column that has been filed before the Court, the prayer has been reproduced in the order and accordingly, these writ petitions were allowed.

3. In this context, Mr.P.Elayaraj Kumar, learned counsel appearing for the petitioners has submitted that in the prayer column in the affidavit filed in support of the said writ petition, referring to Door No.5, Ayyanperumal Patti Village, measuring an extent of 1200 Sq.Ft., it has been mentioned as comprised in Survey Nos.94/4, 95/2, 95/3 and R.S.No.94/4 and 98/2. Therefore, the survey numbers in the prayer column should be



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mentioned as Survey Nos.94/4, 95/2, 95/3 and 98/2. Instead, only Survey Nos.94/4 and 98/2 alone mentioned and 95/2 and 95/3 has been omitted to be mentioned. This is an error due to inadvertent as submitted by Mr.P.Elaiyaraj Kumar, learned counsel appearing for the petitioners. Therefore, he wants a rectification.

4. In this context, learned counsel appearing for the petitioner submitted that the relevant sale deed has also been filed which shows the four survey numbers also.

5. In view of the aforesaid, in the prayer column in W.P.No.3566 of 2023, wherever it occurs in the order dated 28.02.2023, insofar as Document No.3158/2007 bearing Door No.5, Ayyanperumal Patti Village, measuring an extent of 1200 Sq.Ft., is concerned, the “Survey Nos.94/4 and 98/2 as well as the Survey Nos.95/2 and 95/3” also to be added.

6. Registry is directed to issue the corrected order copy to the



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parties.

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27.04.2023

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