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Writ Petition No.3240 of 2015

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED :23.02.2023**

**CORAM :**

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR**

**Writ Petition No.3240 of 2015**  
**and M.P.Nos. 1 and 2 of 2015**  
**and WMP.Nos.6417 & 6418 of 2018**

1. S.Sarvothaman
2. J.S.Sathya

... Petitioners

-Vs-

1. The State of Tamil Nadu,  
Rep. by the Secretary,  
Housing and Urban Development Department,  
Secretariat, Fort St. George,  
Chennai – 600 009.
2. The Collector of Chennai,  
Office of the Collector of Chennai,  
Singaravellar Malligai,  
Rajaji Salai, Chennai – 600 001.
3. The District Revenue Officer,  
Office of the Collector of Chennai,  
Singaravellar Malligai,  
Rajaji Salai, Chennai – 600 001.
4. Tamil Nadu Housing Board,  
Represented by  
The Managing Director,  
TNHB, Nandanam.



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5. Tahsildar,  
Mylapore – Triplicane Taluk,  
Chennai.

6. Thiru.Kirubakaran

7. A.S.D.Natarajan

8. The Managing Director,  
M/s.Ramcos (India) Properties Pvt., Ltd.,  
No.143, Kodambakkam High Road,  
Nungambakkam, Chennai – 600 034.

9. Thiru. A.Shanmugam

10. M/s.N.Selvaradjalou Chetty Trust,  
Rep. by Dr.H.B.N.Chetty,  
17, 1<sup>st</sup> Street, Indira Nagar,  
Adyar, Chennai – 600 020.

... Respondents

Prayer : 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 relating to the impugned proceedings of the 3<sup>rd</sup> respondent in Letter No.J2/24844/2005 dated 03.08.2012 quash the same and consequently to direct the 1<sup>st</sup> respondent to reconvey the land to the 2<sup>nd</sup> petitioner having an extent of 77 cents comprised in Survey No.87/1 of Thiruvanmiyur Village, Chennai.

For Petitioners : Ms.Bhuvaneswari

For Respondents : Mr.P.Sathish  
Additional Government Pleader  
[R1 to R3 & R5]  
Mr.V.Selvaraj [R6]  
Mr.A.M.Ravindranath Jeyapal  
Standing Counsel [R4]  
Mr.P.Chandrasekar [R10]





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owners of the property, therefore, the compensation was awarded to them, not satisfied with the same, that Munusamy preferred an LAOP in LAOP No.89/87, which was dismissed on 15.03.1990, subsequent to which, the possession was taken by the Tamil Nadu Housing Board on 30.10.1986.

5. In the meanwhile, after the demise of Munusamy his son Kirubakaran, who is the sixth respondent herein, has filed a writ petition for re-conveyance of the land on the ground that the land has not been utilized for the purpose for which it was acquired.

6. The said writ petition was ordered, as against which, TNHB preferred intra-court appeal by way of writ appeal, that was ordered in their favour, aggrieved over the same, that Munusamy preferred Special Leave Petition, which was also dismissed in 2005, of-course with liberty to the said Munusamy to claim re-conveyance, if the Tamil Nadu Government has come forward to re-convey the land in question.



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7. Parallely, it is the claim of the petitioners that the first petitioner is the adopted son of Somasundaram Chettiyar, he got the property from his Aunt one Kupppammal, who is the real owner of the property according to the petitioners, that is how the petitioners tracing the title over the property i.e., subject land at S.No.87/1.

8. Therefore, their grievance is that, at the time of acquisition these petitioners should have been given notice and heard and thereafter, if at all the compensation to be awarded that should have been awarded only in favour of the petitioners, therefore the petitioners' claim that the property has never been acquired in the manner known to law because without giving any notice to the real owners of the property, since it has been acquired and claimed to have been taken over by the Tamil Nadu Housing Board, the same would not stand in the legal scrutiny and therefore, the properties have to be re-conveyed in favour of the petitioners i.e., the stand of the learned counsel for the petitioners.

9. However, Mr.A.M.Ravindranath Jeyapal, learned Standing Counsel appearing for the Tamil Nadu Housing Board by stating the



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aforesaid development would further submit that, in 1986 itself the possession was taken over by the Tamil Nadu Housing Board and wherever the lands were acquired for Tamil Nadu Housing Board by the State Government, stage by stage schemes are being implemented and constructions have been made, therefore, it does not mean that, for a particular period, if no constructions have been made in a particular land acquired by the Tamil Nadu Housing Board, which is not going to be utilized forever. Therefore, on that ground, the re-conveyance cannot be made.

10. It is the stand of the learned counsel appearing for the parties that, the impugned order passed by the District Revenue Officer i.e., third respondent dated 03.08.2012 is because of the reference made by the Deputy Secretary to Government, Housing Department vide his letter dated 05.12.2007, under which, the Government had requested the Collector of Chennai to find out the real owner of the land in S.No.87/1. The said letter triggered the District Collector to entrust the matter to the District Revenue Officer, who is the third respondent, who has taken up the issue and heard the parties i.e., petitioners and the private respondents and ultimately, rejected the plea made by the petitioners as



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well as the private respondents about the claim they made regarding the ownership of the land.

11. Aggrieved over the said order passed by the third respondent District Revenue officer dated 03.08.2012, the petitioners have come forward to challenge the same to quash the said order and for consequential direction to the first respondent to re-convey the said land to the second petitioner, that is how this writ petition has come up before this Court for consideration.

12. I have given my anxious consideration to the respective submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

13. When a specific and pointed query was asked to the learned Additional Government Pleader appearing for the State Government as to how a reference has been made to the District Collector or District Revenue Officer by the State Government to find out the real owner of the land in S.No.87/1 is concerned, learned Additional Government Pleader would submit that normally finding of the ownership or title of



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immovable property is concerned, that would be undertaken only by the Civil Court, therefore, the parties can be relegated to go before the Civil Court to establish their rights unless and until the land in question belongs to the Government.

14. Here, it is not the stand of the State Government or the Housing Board that the land is poromboke land belongs to Government, it is the land belongs to the private parties, from whom by proper land acquisition proceedings, the land has been acquired and handed over to the Tamil Nadu Housing Board.

15. When that being so, no doubt need to arise in the minds of the Government to verify the ownership or title of the property and for the said purpose, this Court wonders, as to how the Deputy Secretary to the Government of the Department concerned referred the matter to the Revenue i.e., District Revenue Officer or District Collector to identify the owner of the property.



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16. In this context, if at all such identification has to be made by the District Revenue Officer or Collector concerned, they have to verify only the revenue records, based on which a minimum report can be submitted by the Revenue Department as to who is the owner in view of the revenue records that stands as on date of acquisition.

17. However, if we look at the impugned order passed by the District Revenue Officer dated 03.08.2012, he has passed an order taking the claim of every parties i.e., petitioners, sixth respondent, tenth respondent and others and has given findings about the ownership or title of the property claimed by the respective parties.

18. This kind of exercise to find out the ownership or title over the property is not vested with the Revenue officials like the District Revenue Officer or even to District Collector and that issue has to be necessarily decided by the competent Civil Court. Therefore, though the reference should not have been made by the Deputy Secretary to Government to the District Collector or District Revenue Officer to identify the real owner, assuming that a reference has come from the



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Government, the Collector or District Revenue Officer should have given a proper reply to the Government that the job of identifying the owner or title over the property cannot be made by the Revenue officials within meaning of either under the provisions of the Patta Pass Book Act, 1983 or under the Revenue Standing orders and therefore, accordingly the parties should have been relegated to go before the competent Civil Court to establish their title over the property.

19. Instead, the District Revenue Officer has taken up the matter and passed a detailed order rejecting the claim of these private parties including the petitioners and the private respondents as to the claim made by them over the property in question. This kind of exercise that has been made by the District Revenue Officer through the impugned order dated 03.08.2012 is unsustainable and therefore, this Court has no hesitation to hold that the impugned order would stand in the legal scrutiny.

20. In that view of the matter, this Court is inclined to dispose of this writ petition with the following orders:

- ◆ That the impugned order dated 03.08.2012 passed by the third



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respondent herein is hereby set aside. As a sequel, the parties i.e., petitioners as well as the private respondents herein are hereby relegated to go before the competent Civil Court to institute proper civil suit to establish their right i.e., claim over the property and if any of these private parties are able to establish their right over the property and get a declaration to that effect from the competent Civil Court, based on which they can claim the right of compensation or even re-conveyance provided if the land is capable of being re-conveyed and for the said purpose, the State Government with the consultation of the Tamil Nadu Housing Board can come forward to re-convey the same.

- ◆ Therefore, at this juncture except the aforesaid no other relief can be given to the petitioners.
- ◆ It is made clear that in view of the aforesaid order, if any subsequent plea is made already by either the petitioners or the private respondents seeking re-conveyance of the land, based on which, if any order is passed rejecting such claim made by the private parties herein, that order will not have any effect in view of the present order passed in this writ petition.



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- ◆ If any such suit is filed by the parties i.e., either the petitioner or the private respondents, the same shall be entertained and be decided by the competent Civil Court uninfluenced by the finding given in the impugned order dated 03.08.2012

With these directions and observations, this writ petition is disposed of. No costs. Connected miscellaneous petitions are closed.

**23.02.2023**

Index : Yes/No  
Speaking order: Yes/No  
Neutral Citation: Yes/No  
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**R. SURESH KUMAR, J.**

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