



W.P.Nos.262 of 2018 & etc., batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.06.2023

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.Nos. 262, 1121, 3227, 4518, 5695, 8697, 10528, 13650, 19288,
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W.P.No.262 of 2018

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D.Tulasi

W/o.S.Dharmalingam

...Petitioner

-Vs-

1. The District Revenue Officer,
Dharmapuri.
2. The Revenue Divisional Officer,
Dharmapuri.
3. The Tahsildar,
Dharmapuri.
4. The District Collector,
Dharmapuri.
5. Vijayalakshmi
6. Karthikeyan
6. Navaneethan

...Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus, to quash the order of the 1st respondent herein, dated 22.02.2017 in Na.Ka.11083/2016/P2 and direct the 3rd respondent herein to re-issue the patta in the name of the petitioner.

For Petitioner : Mrs.V.Srimathi

For Respondents : Mr.J.Ravindran
Additional Advocate General
Assisted by Mr.T.Arunkumar,
Additional Government Pleader [1 to 4]

Mr.V.R.Annagandhi [R5 to R7]



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COMMON ORDER

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The batch of writ petitions are filed for the relief of seeking patta by filing an application before the original authority or cancellation of patta or mutation of revenue records and in some of the writ petitions, directions are sought for to dispose of the appeal pending before the competent authority under the provisions of the Patta Pass Book Act, 1983 [in short, 'the Act'] and other writ petitions are filed seeking a direction to consider the representation/application filed by the petitioner to dispose of the same by following the procedures contemplated under the Act.

2. Granting patta, its cancellation or mutation of revenue records are to be carried on strictly by following the procedures as contemplated under the Patta Passbook Act. All such applications are to be presented before the competent authorities under the prescribed format by paying the prescribed fee. The applications received in this regard are to be maintained by the competent authority in an order and by registering the same for the purpose of conducting an enquiry by affording opportunity to all the parties and thereafter take a decision and pass appropriate orders.



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3. The writ petitioners in several writ petitions have filed applications and immediately approached the High Court seeking a direction to dispose of the representations or the appeal as the case may be. In the event of directing the authorities to consider the application or representation or appeal in such cases, the other aggrieved persons, who all are waiting for long years for disposal of their applications will be deprived of their opportunity and prejudiced. A situation will arise, the persons who all are able to get an order of direction to dispose of the representation from the High Court alone will get disposal from the hands of the authorities and other aggrieved persons, who all are waiting for years together may not get remedy from the hands of the authorities competent. The situation created in this regard would also result in an unconstitutionality, since the public authorities are bound to be consistent in taking actions for redressal of the grievances of all the citizens.

4. In the event of granting priority or preference to one aggrieved person would cause infringement of right of other aggrieved persons, who all are longing to secure redressal from the hands of the competent authorities. Thus, the discrimination in this regard is to be avoided at all circumstances by treating the aggrieved persons equally in the matter of



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considering their cases in the order of seniority.

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5. No doubt, in certain cases urgency may be imminent. With reference to such cases, the person should file an affidavit substantiating their emergency and the competent authorities may consider and grant priority for those cases alone by recording reasons. For example, if a senior citizen files a petition stating that his case should be heard by giving priority, then, amongst the senior citizens the priority is to be granted and accordingly, the applications and appeals are to be disposed by the competent authorities. At the outset, uniformity and consistency in administrative actions are mandated under the constitution of India. No citizen is to be discriminated in the matter of considering his/her grievance in accordance with Statutes and Rules in force.

6. This Court is consistently receiving many such writ petitions to dispose of the representation/application/appeal filed under the provisions of the Act and mechanical issuance of directions in such writ petitions would cause prejudice to other aggrieved persons, who all are waiting for years. Merely issuing a direction to consider the representation would do no service to the cause of justice. The litigants are back again to the High



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Court by way of another writ petition. It is always preferable to decide the issues on merits by the High Court and only in certain circumstances such directions are issued in the interest of justice.

7. The practice of filing writ petitions immediately after sending the application/representation/appeal cannot be appreciated and litigants are expected to understand that the public authorities are bound to deal with many such applications/appeal filed by number of aggrieved persons.

8. No doubt, every aggrieved person may be in hurry to get relief and under those circumstances, the competent authorities are not expected to discriminate amongst aggrieved persons. In-consistency would lead to corrupt practices. For example, if preference is given without any valid reason, there is a possibility of inference. It will unnecessarily provide doubtful circumstances and acrimonious will cause on the public authorities. Transparency in public administration is the hall mark and the constitutional requirement. No doubt, the public authorities are burdened with other administrative works other than dealing with the applications under the Act. Hearing of applications and its disposal are to be streamlined.



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WEB COPY 9. A balance and pragmatic approach in such issues are imminent and warranted. It may not be possible for other aggrieved person to approach the High Court by filing writ petition, even for disposal of their statutory applications/appeal under the Act and Rules. The statutory applications/appeals filed by the aggrieved persons are to be heard and disposed of by the competent authorities, which is the public duty imposed on them. Thus, the practice of filing writ petitions before the High Court soon after filing of the applications/appeal is to be avoided. If at all the appeals or applications are not disposed of by the competent authorities within the prescribed time limit, if any fixed by the Government or within a reasonable period of time, then alone the cause would arouse for the purpose of filing of the writ petition, but not otherwise.

10. Thus, a writ petition for granting the relief to direct the authorities to dispose of the representation or appeal is to be entertained only if no orders are passed by such authorities within a period of six months from the date of receipt of a copy of the appeal / representation or application.



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11. The growing trend of filing a writ petition immediately after submitting an application / appeal need not be entertained by the High Court. A reasonable time must be granted to the authorities to scrutinise the application and the documents filed by the parties and thereafter fix a date for hearing the appeal.

12. Rule 4 of the Tamil Nadu Patta Passbook Rules, 1987 reads as follows:

“4. Procedure on receipt of application or information. -

(1) On receipt of the application or information, the Tahsildar shall make an entry in the "Register of Applications Received" in the order of receipt in Form III. The Register shall be maintained village-wise.

(2) On the basis of the information furnished in the application and as available in the existing land records or obtained otherwise, the Tahsildar shall cause to be served or despatched, under certificate of posting, to the persons having interest on the land a notice in Form IV calling upon them to make representation either orally, or in writing at a specific place on a specified date which shall be not less than fifteen days and forty days later than the date of receipt of the application or information.

(3) On the prescribed date, the Tahsildar shall conduct a summary enquiry. At the enquiry, on consideration of age, literacy and occupation, the Tahsildar may permit an authorised agent of the owner to appear on his behalf to supplement whatever the owner has to state



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orally or in writing. No legal practitioner in his professional capacity shall be allowed to represent any party at such an enquiry. There shall not be adjournment of the enquiry not more than twice and that adjournment shall be granted only on application made by the parties requesting for adjournment. Reasons for granting or refusing the adjournment shall be recorded by the Tahsildar in writing.

(4) In the event of the Tahsildar being satisfied that a dispute concerning ownership of patta is already pending in a Court or issues are raised before him which impinge on personal laws or laws of succession and all the parties interested do not agree on the ownership in writing, he shall direct the concerned parties to obtain order on the ownership from a competent Civil Court having jurisdiction before changing the entries as already recorded and existing in the various revenue records.

(5) The Tahsildar shall first obtain declaration in Form V from the owner who has not made any application for Patta Pass Book and, then, he shall issue Patta Pass Book in accordance with the provisions of the Act.

(6) (i) The Tahsildar shall publish a notice in the District Gazette informing that a copy of Form VII will be available in a conspicuous place in the village for verification for a period of seven days from the date of publication of notice inviting the land owners to file their objections, if any, in writing, to the Tahsildar within twenty-two days from the date of publication of notice and such notice shall also be published in the manner specified in sub-rule (i) of rule 3 on expiry of the period specified in the notice. Further enquiry shall be conducted. If necessary, and Form VII corrected accordingly. Only thereafter, entries in the Register in Form VII shall be made village-wise for the entire taluk.

(ii) The Tahsildar while passing orders shall see



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that in the cases of land assigned to Scheduled Castes/Scheduled Tribes, under conditional assignment, the conditions under which they are granted are not violated and transfers to non-Scheduled Castes and Scheduled Tribes are not recognised. The Tahsildar shall record in the Register of Patta Pass Book, China and Patta Pass Book in red ink, the condition that the land is non-alienable to a person other than Scheduled Castes/Scheduled Tribes, as the case may be.

(iii) When breach of conditions, if any, are noticed in the cases of lands assigned conditionally, the Tahsildar shall report to the Revenue Divisional Officer for further follow up action for the resumption of such land or lands under the provisions in Revenue Standing Order.

(7) The person who acquires by succession, survivorship, inheritance, partition, purchase, or otherwise or by decree or order of a Court or by order of the Government or other authority, any right in or over any land as owner shall send a report in writing to the Tahsildar with details of such acquisition of rights. On receipt of such report, the Tahsildar shall make an enquiry in accordance with the procedure set out in these rules for the purpose of modification of entries in the Patta Pass Book already issued or for the purpose of issuing new Patta Pass Book. Within fifteen days of completion of the said enquiry, the Tahsildar shall make arrangement so for issuing orders for modification of entries in the Patta Pass Book or for effecting sub-divisions, if necessary, on collection of sub-division fee-of Rs. 3 (Rupees three only) by way of Court-fee labels and to make necessary entries in the Patta Pass Book or for issue of a new Patta Pass Book or otherwise, as the case may be. The aforesaid order shall be communicated to the parties concerned under certificate of posting or by service in person. A copy of the said order shall be communicated to the office of



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the Sub-Registrar exercising jurisdiction over the land concerned.”

The procedure, on receipt of an application or information under the Patta Passbook Act, has been clearly stipulated in the Rules.

13. As far as the appeal is concerned, Rule 14 contemplates that, “An appeal against any order of the Tahsildar passed under the Act shall be filed before the officer in charge of Revenue Division in whose jurisdiction the property lies within a period of thirty days from the date of the receipt of the order.”

14. In the context of the provisions of the Patta Passbook Act and the Tamil Nadu Patta Passbook Rules, 1987, every authority is conferred with the power to deal with grant of patta, its cancellation or mutation of revenue records. On receipt of an application, the authority has to register the application immediately and such registration must be intimated to the parties concerned. Thereafter, the procedure as contemplated under Rule 4 of the Tamil Nadu Patta Passbook Rules, 1987 are to be followed scrupulously for the purpose of conducting an enquiry and for passing orders on the application submitted by aggrieved persons.



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15. When the procedures are unambiguously prescribed under the Rules, many number of writ petitions are filed on the ground that such procedures contemplated under the Rules are not followed by the competent authorities. Even registration of the applications are not done by many of the authorities. In this regard, the Commissioner of Revenue Administration, Chepauk, Chennai – 600 005 has to issue a comprehensive circular, intimating the authorities to follow the procedures in order to develop efficiency in public administration. In the event of any violation of the procedures, it is to be construed as a lapse and dereliction of duty warranting disciplinary action against the officials, who are all committing such misconducts.

16. In Government Order in G.O.Ms.No.114 of the Personnel and Administrative Reforms (A) Department dated 02.08.2008, the procedures for dealing with the grievance petition are stipulated. The said order was issued by the Government of Tamil Nadu.

17. A writ petition filed immediately after filing of the application is not entertainable in view of the procedures contemplated under the provisions of the Patta Passbook Act and Rules. Only after proper



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registration of the application by the competent authority and after the expiry of the time limit granted to the authority, a writ petition is to be entertained, but not otherwise. The cause of action for filing a writ petition would arise only in the event of failure on the part of the public authority to perform his duties.

18. This being the scope of writ of mandamus, only after registration and expiry of the time limit granted to the authorities to dispose the application under the Statute and Rules, or within a reasonable period of time a writ petition may be entertained. An aggrieved person, filing an application / appeal, must file the same along with all requisite documents. If the documents are not enclosed by the person, then, the authorities shall return the papers, asking them to file the same along with the relevant documents. Only after filing of the relevant documents, the application / appeal are to be registered in the register, to be maintained by the competent authority and thereafter, summons are to be issued to all the parties for the purpose of conducting the enquiry. Such a procedure must be followed in order to develop efficiency in public administration and to avoid discrimination in the matter of dealing with the application or appeal as the case may be. If not, the situation would be, as if every person filing



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an application or appeal should get an order to dispose of the application or appeal. Such a situation would lead to an anomalous circumstances and every citizen may not be in a position to approach the High Court to get such a relief. Equal opportunity, being the hallmark principle in the Indian Constitution, the authorities competent are bound to ensure that equal opportunity is provided to all the applicants / appellants without any discrimination and the procedures are followed.

19. The scope of Patta Pass Book Act, 1983 is to be considered by the competent authority, while dealing with the application/appeal.

20. The Revenue Authorities under the Patta Pass Book Act are not empowered to adjudicate or decide the title disputes or ownership or the civil rights between the parties. Under the provisions of the Patta Pass Book, only in the absence of any ambiguity on the documents regarding title or otherwise, the authority has to issue patta and in the event of any doubt regarding title, ownership or otherwise, the parties are to be relegated to the Civil Courts for establishing their case. The Revenue Authorities are conducting summary proceedings for grant of patta. Summary proceedings cannot be equated with the trial proceedings, which



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are to be conducted by the Civil Courts. In the event of ascertaining the title, ownership or civil rights through summary proceedings, it will lead to an anomalous situation, where the parties may not be in a position to ascertain their rights. Thus, the Revenue Authorities are not expected to act akin to that of the Civil Courts, while conducting summary proceedings on the applications submitted for grant of patta. The Revenue Authorities shall pass speaking orders by recording the reasons for arriving at a conclusion.

21. The Revenue Authorities are granting patta, cancelling patta and mutating revenue records during the pendency of the civil litigations between the parties before the Competent Civil Court of Law. Such an exercise is perverse. During the pendency of the civil litigations, the Revenue Authorities are not empowered to grant patta or cancel patta, which would cause further complications or create unnecessary disputes between the parties. Patta would not confer any right of title or ownership. The parties are bound to establish their case with reference to the documents and evidences before the Competent Civil Court of Law. Therefore, if the civil litigations are pending between the parties, then the Revenue Authorities shall return the application with a liberty to represent



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the same after the disposal of the civil litigations. If at all patta has already been granted and the Suit instituted subsequently is pending, then the Revenue Authorities shall keep all further proceedings in abeyance till such time the civil litigations are disposed of. The proceedings under the Patta Pass Book Act is to be streamlined in the interest of public and in the interest of the aggrieved persons. The anomalous situation now prevailing in the Land Administration Departments are paving way for illegalities, irregularities and the land grabbers are taking undue advantage by such administrative inconsistencies and un-streamlined procedures.

22. An apprehension has been raised that if the parties are relegated to the Civil Court they will have to wait for several years for the disposal of the civil litigations and thereafter, there will be a delay in approaching the authorities. In such circumstances, the Revenue Authorities have to take into consideration the period during which the litigations were pending before the Courts of Law and accordingly, entertain the applications and decide the same on merits and in accordance with law. The continuing cause of action is to be established in such circumstances for condoning the delay, and if the reasons are genuine and acceptable, then the delay may be condoned.



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23. It is evident from the G.O.Ms.No.714, dated 29.06.1987 under Section 11(a) of the Act, the cut-off date for applying Ryotwari patta was fixed as 20.08.1987. Thus, no application can be entertained after the cut-off date for grant of Rayotwari patta. In such nature of cases, delay cannot be condoned, since such delay is uncondonable. The Authorities lack power for entertaining such applications, where the cut-off date has been fixed by the Government for submitting application. The applicant has no *locus standi* to file an application for grant of Ryotwari patta beyond 20.08.1987 nor the authorities have jurisdiction to receive the application for grant of Ryotwari patta. Thus, the very initiation of the proceedings by the appellants for granting of Ryotwari patta has to fail and no relief can be granted.

24. Proviso to Section 14 of the Tamil Nadu Patta Pass Book Act stipulates that “if any person is aggrieved as to any right of which he is in possession, by an entry made in the Patta Pass Book under this Act, he may institute a suit for a declaration of his rights under Chapter VI of the Specific Relief Act, 1963(Central Act 47 of 1963); and the entry in the patta pass book shall be amended in accordance with any such declaration.”



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25. Therefore, the competent authorities under the Patta Pass Book Act is obligated to amend the entries, if any decree from the competent court of law is placed before such authority. Therefore, the authorities disputing title, ownership or otherwise, after securing a decree from the competent court of law is at liberty to place the same before the competent authority for effecting necessary amendment or changes in the revenue records.

26. In some of the writ petitions, the parties have presented the copy of the decree obtained from the Competent Civil Court of Law. Thus, the Revenue Authorities are bound to entertain and make necessary entries in accordance with the procedures contemplated under Section 14 of the Tamil Nadu Patta Pass Book Act, 1983. The facts and circumstances of each case is to be considered by the Revenue Authorities on merits and the issues are to be considered based on the documents and evidences.

27. The Division Bench of this Court in the case of ***Vishwas Footwear Company Ltd., Vs. The District Collector, Kancheepuram*** reported in ***2011 5 CTC 94*** held as follows:

“19.Nevertheless, the core question involved in the



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writ petition is as to whether in the given facts and circumstances of the case, it could be entertained in the event of patta has been granted in favour of a particular individual. On the strength of the title or possession, if any other person makes an application to the Revenue Divisional Officer for cancellation of that patta and in the event both the individuals claim title over the property, the Revenue Divisional Officer cannot adjudicate such disputed questions and accepting the case of the other person, he cannot cancel the patta. The right course to be adopted by the Revenue Divisional Officer in such case is only to refer the applicant who has come before him seeking for cancellation of patta to civil court, especially when his claim is disputed by the individual who is holding the patta granted by the competent authority. In the event the Revenue Divisional Officer by exceeding his jurisdiction decides the question of title and cancels the patta, certainly the aggrieved person can approach this Court by way of a writ petition on the ground that the Revenue Divisional Officer was not competent to go into the title. The question of alternative remedy is not available to the aggrieved person as for the very same reason the District Collector also cannot go into the disputed question regarding the title or possession, as the case may be, in the event an appeal is filed.”

28. In respect of applications filed for effecting correction in the



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UDR, such applications are to be directly filed before the District Revenue Officer, who in turn has to conduct an enquiry and decide the issues. An appeal against the order passed by the District Revenue Officer is only to the Civil Court of Law and therefore, the applications filed seeking corrections in the UDR shall not be entertained by other authorities under the Patta Pass Book Act, 1983. Therefore, the entertainability of the application is to be decided by the competent authority at the first instance and once the application/appeal is entertainable under the provisions of the Act then it is to be registered in the order of seniority and the seniority assigned has to be communicated to the applicant/appellant concerned and thereafter, an enquiry is to be conducted as contemplated under the Act and Rules.

29. The petitioner who all are possessing the civil court decree are at liberty to submit the same before the competent authority and after verifying the decree, the competent authorities shall make necessary entries in the registers in consonance with proviso to Section 14 of the Patta Pass Book Act.

30. Regarding the applications submitted for modification of entries



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in the patta, the original authority, who issued patta is not empowered to modify beyond the scope of the circumstances stated under Section 10 of the Patta Pass Book Act.

31. The very object of the Tamil Nadu Patta Pass Book Act, 1983 is to issue patta to the holders of the land. It indicates that the persons holding title and possession are entitled to secure patta by filing an appropriate application under the Act. In the event of any dispute regarding title, ownership, boundaries or possession etc., the Revenue Authorities have to relegate the parties to approach the Competent Civil Court of Law. Thus, adjudication of civil disputes either by the Revenue Authorities or under the writ proceedings are impermissible and the Competent Civil Court of Law alone is empowered to conduct trial and determine the rights between the parties.

32. With regard to persons seeking patta in respect of inam lands or Government assigned lands or Natham poromboke or otherwise, the authorities competent are bound to conduct an enquiry as to whether the persons submitting an application is holding a title and is in possession or not and if the title has not been established then, patta cannot be granted.



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33. In view of the anomalous situation created on account of the inconsistency in dealing with the grievances of the aggrieved persons, this Court is inclined to pass the following orders:

- (1) The Commissioner of Land Administration is directed to issue orders to all the competent authorities under his control across the State of Tamil Nadu to maintain registers for entertaining the applications/representations/appeals filed in a prescribed format by complying with the procedures under the Patta Pass Book Act, 1983 and the Rules in force.
- (2) Every such application filed by the aggrieved persons are to be registered in the book of register and serial number has to be assigned in the order of seniority and such seniority assigned must be informed/communicated to the applicants/appellants.
- (3) All the applications/appeals by the respective parties are to be taken up for hearing/enquiry in the order of seniority as far as possible and without causing any discrimination amongst the similarly placed applicants/appellants. Priority for hearing/enquiry is to be granted only if the applicant/appellant is able to establish that there is a genuine urgency, which is to be recorded by the Competent authority, while taking up the matter for hearing/enquiry.



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All other applications/appeals are to be heard and disposed of in the order of seniority.

- (4) An enquiry under the Patta Pass Book Act, 1983 is to be conducted by the competent authorities by following the procedures as contemplated under the Rules and by affording opportunity to the parties. The competent authorities shall refuse to grant unnecessary adjournments to the parties, who all are intending to prolong and protract the matter. Adjournments are to be granted on genuine grounds only by recording the reasons. Casual adjournments of hearing are to be avoided, which would cause prejudice to any one of the party.
- (5) All applications / appeals are to be disposed of by the competent authorities within a prescribed time limits stipulated under the Government orders or by the Commissioner of Land Administration. In the event of no time limit, the authorities are expected to pass orders within a reasonable period of time i.e., within a period of six months.
- (6) The respondents are directed to relegate the parties to the Civil Court of Law, if there is any disputed facts regarding civil rights between the parties exists.



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- (7) The respondents are directed not to entertain applications under the Patta Pass Book Act, if the Civil Suits between the parties are pending before the Court of Law. In such circumstances, the applicants/appellants may be granted liberty to approach the competent authorities only after resolving the issues before the Civil Court of Law. The Authorities are directed to keep the revenue proceedings in abeyance till such time the civil disputes reach finality between the parties.
- (8) The Commissioner of Revenue Administration is directed to issue consolidated instructions/circular to all the subordinate officials based on the orders passed by this Court and ensure proper implementation to make the public administration more efficient, since it is a Constitutional mandate.
- (9) The Higher Authorities are directed to conduct periodical review to ensure that the procedures are followed scrupulously and in the event of any lapses, negligence or dereliction of duty on the part of the authorities, appropriate disciplinary actions are to be initiated under the Service Rules.



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(10) The competent authorities are directed to pass speaking orders and communicate the same to all the parties concerned in the manner prescribed under the Rules of Public Administration.

With the above observations, these writ petitions are disposed of. No costs. Connected miscellaneous petitions are closed.

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Index : Yes
Neutral Citation : Yes
Speaking order
mp/jeni

To

The Commissioner of Land Administration,
Ezhilagam, Chepauk,
Chennai – 600 005.



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S.M.SUBRAMANIAM. J.,

mp

W.P.Nos.262 of 2018 & etc., batch

09.06.2023