



W.P.Nos.4898 to 4907 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED : 10.07.2023

CORAM :

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P.Nos.4898 to 4907 of 2017,
W.M.P.Nos.5128 to 5136 of 2017

K.Jayaprakash	... Petitioner in W.P.No.4898 of 2017
J.Radha	... Petitioner in W.P.No.4899 of 2017
I.Sagaya Mary	... Petitioner in W.P.No.4900 of 2017
Visalakshi	... Petitioner in W.P.No.4901 of 2017
Kasthuri	... Petitioner in W.P.No.4902 of 2017
Mangala Gowri (died) 1.B.Sujatha 2.B.Arunau	... Petitioners in W.P.No.4903 of 2017
M.Shanmugam	... Petitioner in W.P.No.4904 of 2017
R.Christine Jona	... Petitioner in W.P.No.4905 of 2017



W.P.Nos.4898 to 4907 of 2017

WEB COPY K.Raghukannan

... Petitioner
in W.P.No.4906 of 2017

M.Fathima Mary

... Petitioner
in W.P.No.4907 of 2017

[Petitioner in W.P.No.4903 of 2017 died and her legal heirs have been substituted in her place vide order of this Court dated 10.07.2023 made in W.M.P.No.19846 of 2023 in W.P.No.4903 of 2017]

Vs.

1.The Commissioner,
Urban Land Ceiling and Urban Land Tax,
Chepauk, Chennai – 600 005.

2.Assistant Commissioner,
Urban Land Tax, Coimbatore.

3.The Tahsildar,
Salem Taluk, Salem.

... Respondents
in all writ petitions

Prayer in W.P.No.4898 of 2017 : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pertaining to impugned order in Ref.No.533/2015/A-4 dated 26.07.2016 on the file of the 2nd respondent and quash the same and consequentially to direct the respondents to carryout necessary mutation in the village records by entering the petitioner's name as Pattathar of the



W.P.Nos.4898 to 4907 of 2017

property viz., Punja Land having 26 ½ cents in Survey No.139/1A as per Schedule mentioned as Item 2 in the Settlement Deed dated 16.12.2009 registered as Document No.7478/2009 on the file of SRO, Suramangalam, Salem, in addition to that equal share with other co-sharer in 0.01 Cents in S.No.139/1A as per Schedule mentioned as Item 3 in the said Deed along with 300 sq.ft. land and 1/4th share in the Well i.e.545 sq.ft. (totally 845 sq.ft.) as per Schedule mentioned as Item 4 in the said Deed, situated in Alagapuram Pudur Village and to issue patta in his name, within a reasonable time to be fixed by this Court.

Prayer in W.P.No.4899 of 2017 : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pertaining to impugned order in Ref.No.533/2015/A-4 dated 26.07.2016 on the file of the 2nd respondent and quash the same and consequentially to direct the respondents to carryout necessary mutation in the village records by entering the petitioner's name as Pattathar of the property viz., having an extent of 1447 ¾ sq.ft. (134.50 sq.mts) comprised in Survey No.139/1A, Peria Pudur Village, Salem Taluk and District, as per Schedule in sale deed dated 05.09.2013, registered as Document No.5699/2014 on the file of SRO, Suramangalam, Salem and to issue patta in his name, within a reasonable time to be fixed by this Court.

Prayer in W.P.No.4900 of 2017 : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pertaining to impugned order in Ref.No.533/2015/A-4 dated



W.P.Nos.4898 to 4907 of 2017

26.07.2016 on the file of the 2nd respondent and quash the same and consequentially to direct the respondents to carryout necessary mutation in the village records by entering the petitioner's name as Pattathar/title holder of the property viz., having an extent of 1560 sq.ft., comprised in Survey No.139/1, Peria Pudur Village, Salem Taluk and District, as per Schedule in sale deed dated 11.02.2008, registered as Document No.1019/2008 on the file of SRO, Suramangalam, Salem and to issue patta in her name, within a reasonable time to be fixed by this Court.

Prayer in W.P.No.4901 of 2017 : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pertaining to impugned order in Ref.No.533/2015/A-4 dated 26.07.2016 on the file of the 2nd respondent and quash the same and consequentially to direct the respondents to carryout necessary mutation in the village records by entering the petitioner's name as Pattathar of the property viz., having an extent of 2600 sq.ft. Comprised in Survey No.139/1, Peria Pudur Village, Salem Taluk and District, as per Schedule in sale deed dated 05.02.1982, registered as Document No.473/1982 on the file of Registrar, Salem and to issue patta in her name, within a reasonable time to be fixed by this Court.

Prayer in W.P.No.4902 of 2017 : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pertaining to impugned order in Ref.No.533/2015/A-4 dated 26.07.2016 on the file of the 2nd respondent and quash the same and



W.P.Nos.4898 to 4907 of 2017

consequentially to direct the respondents to carryout necessary mutation in the village records by entering the petitioner's name as Pattathar of the property viz., having an extent of 504 sq.ft. comprised in Survey No.139/1A, Peria Pudur Village, Salem Taluk and District, as per Schedule in settlement deed dated 15.02.2007 registered as Document No.989/2007 on the file of SRO, Suramangalam, Salem and to issue patta in her name, within a reasonable time to be fixed by this Court.

Prayer in W.P.No.4903 of 2017 : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pertaining to impugned order in Ref.No.533/2015/A-4 dated 26.07.2016 on the file of the 2nd respondent and quash the same and consequentially to direct the respondents to carryout necessary mutation in the village records by entering the petitioner's name as Pattathar of the property having an extent of 1635 sq.ft. comprised in Survey No.139/1, Peria Pudur Village, Salem Taluk and District, within a reasonable time to be fixed by this Court.

Prayer in W.P.No.4904 of 2017 : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pertaining to impugned order in Ref.No.533/2015/A-4 dated 26.07.2016 on the file of the 2nd respondent and quash the same and consequentially to direct the respondents to carryout necessary mutation in the village records by entering the petitioner's name as Pattathar of the properties having an extent of 1800 sq.ft. each comprised in Survey



W.P.Nos.4898 to 4907 of 2017

No.139/1, Peria Pudur Village, Salem Taluk and District, as per Schedule in sale deeds dated 04.02.2008, registered as Document Nos.789 and 790 of 2008 on the file of SRO, Suramangalam, Salem, in his name, within a reasonable time to be fixed by this Court.

Prayer in W.P.No.4905 of 2017 : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pertaining to impugned order in Ref.No.533/2015/A-4 dated 26.07.2016 on the file of the 2nd respondent and quash the same and consequentially to direct the respondents to carryout necessary mutation in the village records by entering the petitioner's name as Pattathar/title holder of the property viz., having an extent of 1620 sq.ft. comprised in Survey No.139/1, Peria Pudur Village, Salem Taluk and District, as per Schedule in sale deed dated 11.02.2008, registered as Document No.1017/2008 on the file of SRO, Suramangalam, Salem and and to issue patta in her name, within a reasonable time to be fixed by this Court.

Prayer in W.P.No.4906 of 2017 : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pertaining to impugned order in Ref.No.533/2015/A-4 dated 26.07.2016 on the file of the 2nd respondent and quash the same and consequentially to direct the respondents to carryout necessary mutation in the village records by entering the petitioner's name as Pattathar of the properties having an extent of 0.89 ½ Cents; 0.01 Cents; and 790 sq.ft., comprised in Survey No.139/1 in Alagapuram Pudhur Village, within the



W.P.Nos.4898 to 4907 of 2017

Sub-Registration District of Suramangalam and within the Taluk and Registration District of Salem, mentioned as Items 1, 2 and 4 of the said settlement deed dated 16.12.2009 registered as Document No.7477/2009 on the file of SRO, Suramangalam, Salem, within a reasonable time to be fixed by this Court.

Prayer in W.P.No.4907 of 2017 : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pertaining to impugned order in Ref.No.533/2015/A-4 dated 26.07.2016 on the file of the 2nd respondent and quash the same and consequentially to direct the respondents to carryout necessary mutation in the village records by entering the petitioner's name as Pattathar/title holder of the property viz., having an extent of 1620 sq.ft., comprised in Survey No.139/1, Peria Pudur Village, Salem Taluk and District, as per Schedule in sale deed dated 11.02.2008, registered as Document No.1018/2008 on the file of SRO, Suramangalam, Salem and to issue patta in her name, within a reasonable time to be fixed by this Court.

For Petitioner : Mr.P.Rajavel
in all writ petitions

For R1 to R3 : Mr.D.Ravichander
Special Government Pleader
in all writ petitions



WEB COPY



W.P.Nos.4898 to 4907 of 2017

COMMON ORDER

The order, dated 26.07.2016, passed by the Assistant Commissioner, Urban Land Tax, Coimbatore, is under challenge in these writ petitions.

2.The petitioner in W.P.No.4898 of 2017 states that his father R.Kumarasamy is the erstwhile owner of the land to an extent of 1.11.0 Hectare, comprised in Survey No.139/1 and 139/1-A in No.54, Alagapuram Pudur Revenue Village, Salem Taluk and District. The father of the petitioner in W.P.No.4898 of 2017 was in possession and enjoyment of the property for a long time and on coming to know that the said land had been taken under the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978, without any notice, the father of the writ petitioner in W.P.No.4898 of 2017 filed writ petitions in W.P.Nos.15536 of 1995 and 2488 of 1996, challenging the proceedings initiated under the Act. During the pendency of the writ petition, the said Act had been repealed by the Tamil Nadu Urban Land (Ceiling and Regulation) Repeal Act, 1999. As per the Repeal Act, the authorities are not permitted to pursue the proceedings initiated



W.P.Nos.4898 to 4907 of 2017

under the original Act.

WEB COPY

3.In this context, the learned counsel for the petitioner states that possession was not taken from the father of the writ petitioner and no notice was served to him and therefore, the impugned order is liable to be set aside.

4.Learned Special Government Pleader appearing for the respondents furnished the original file relating to the subject property. Perusal of the file reveals that there is no acknowledgment or proof to establish that notice was served or possession was taken from the father of the writ petitioner. Form-7 is available in the file, but there is no acknowledgment for issuance of notice to the original land owner. In the absence of any proof to establish that notice has been served or possession has been taken, the benefit of the Repeal Act is to be extended to the original land owner. In the present case, the original file does not contain any proof to establish that the respondents had issued notice to the original land owner and possession has been taken by following the procedures as contemplated under the Act. Thus, the petitioner is entitled for the benefit of the Repeal Act.



W.P.Nos.4898 to 4907 of 2017

WEB COPY 5. Accordingly, the impugned order passed by the 2nd respondent in Ref.No.533/2015/A-4, dated 26.07.2016, is quashed and these writ petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

10.07.2023
(2/2)

mkn

Internet : Yes
Index : Yes
Neutral citation : Yes
Speaking order

To

1. The Commissioner,
Urban Land Ceiling and Urban Land Tax,
Chepauk, Chennai – 600 005.
2. The Assistant Commissioner,
Urban Land Tax,
Coimbatore.
3. The Tahsildar,
Salem Taluk, Salem.



WEB COPY



W.P.Nos.4898 to 4907 of 2017

S.M. SUBRAMANIAM, J.

mkkn

W.P.Nos.4898 to 4907 of 2017

10.07.2023
(2/2)