



W.A.Nos.2245 to 2247 of 2018 & 1235 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

JUDGMENT RESERVED ON	JUDGMENT PRONOUNCED ON
04.01.2023	13.02.2023

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI
and
THE HONOURABLE MRS. JUSTICE R.HEMALATHA

W.A.Nos.2245 to 2247 of 2018 & 1235 of 2019
and C.M.P.Nos.17893, 19139, 19145 of 2018 & 8508 of 2019

W.A.No.2245 of 2018

The Pattukottai Polytechnic Society
(S.No.31/1982)
Represented by its Secretary
Registered Office:
Block No.5, 3-B, “Bajaj Apartments”
5th street, Nandamam Extension
Chennai-600 035.

.. Appellant

VS.

1.The Principal Secretary
Government of Tamilnadu
Municipal Administration and Water
Supply Department
Fort St. George, Chennai-600 009.

2.The District Collector
Thanjavur.

3.The Commissioner
Pattukottai Municipality
Pattukottai – 614 601.

.. Respondents



W.A.Nos.2245 to 2247 of 2018 & 1235 of 2019

Prayer: Writ Appeal is filed under Clause 15 of Letters Patent Act against the order dated 03.10.2018 passed in W.P.No.13887 of 2014 on the file of this Court.

For Appellant : Mr.Ashok Pathy
for M/s.Pass Associates

For R1 & R2 : Mr.A.Selvendran
Special Government Pleader

For R3 : Mr.R.Shanmugasundaram
Advocate General for Municipality
assisted by Ms.A.G.Shakeena

W.A.No.2246 of 2018

The Pattukottai Polytechnic College
Represented by its Correspondent and Secretary
S.D.S.Selvam, S/o.S.D.Somasundaram
Pattukottai, Thanjavur District.

.. Appellant

Vs.

1.The State of Tamilnadu
Represented by its District Collector
Thanjavur District.
Thanjavur.

2.The Commissioner
Pattukottai Municipality
Pattukottai
Thanjavur District.



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3.P.Vasantha

.. Respondents

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Prayer: Writ Appeal is filed under Clause 15 of Letters Patent Act against the order dated 03.10.2018 passed in W.P.(MD)No.8917 of 2010 on the file of this Court.

For Appellant : Mr.Ashok Pathy
for M/s.Pass Associates

For R1 : Mr.A.Selvendran
Special Government Pleader

For R2 : Mr.R.Shanmugasundaram
Advocate General for Municipality
assisted by Ms.A.G.Shakeena

For R3 : Mr.Naveen Kumar Murthi

W.A.No.2247 of 2018

The Pattukottai Polytechnic Society
(S.No.31/1982)
Represented by its Secretary
Registered Office:
Block No.5, 3-B, "Bajaj Apartments"
5th street, Nandamam Extension
Chennai-600 035.

.. Appellant

Vs.

1.The Principal Secretary
Government of Tamil Nadu
Department of Higher Education
Fort St. George
Chennai-600 009.



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2.The Principal Secretary
Government of Tamilnadu
Department of Rural Development
and Panchayat Raj
Fort St. George, Chennai-600 009.

3.The Principal Secretary
Government of Tamilnadu
Municipal Administration and Water
Supply Department
Fort St. George, Chennai-600 009.

4.The Principal Secretary and
Commissioner of Land Administration
“Ezhilagam”, Chepauk
Chennai-600 005.

5.The District Collector
Thanjavur.

6.The Commissioner
Pattukottai Municipality
Pattukottai – 614 601.

.. Respondents

Prayer: Writ Appeal is filed under Clause 15 of Letters Patent Act
against the order dated 03.10.2018 passed in W.P.No.31042 of 2013 on
the file of this Court.

For Appellant : Mr.Ashok Pathy
for M/s.Pass Associates

For R1 to R5 : Mr.A.Selvendran
Special Government Pleader

For R6 : Mr.R.Shanmugasundaram
Advocate General for Municipality
assisted by Ms.A.G.Shakeena



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W.A.No.1235 of 2019

WEB CO P.Vasanth

.. Appellant

Vs.

1.The State of Tamil Nadu
Represented by its District Collector
Thanjavur District
Thanjavur.

2.The Commissioner
Pattukkottai Municipality
Pattukkottai, Thanjavur District.

3.Pattukkottai Polytechnic College
Represented by its Correspondent and Secretary
S.D.S.Selvam, S/o.S.D.Somasundaram
Pattukkottai, Thanjavur District.

.. Respondents

Prayer: Writ Appeal is filed under Clause 15 of Letters Patent Act
against the order dated 03.10.2018 passed in W.P.(MD)No.8917 of 2010
on the file of this Court.

For Appellant : Mr.Naveen Kumar Murthi

For R1 : Mr.A.Selvendran
Special Government Pleader

For R2 : Mr.R.Shanmugasundaram
Advocate General for Municipality
assisted by Ms.A.G.Shakeena

For R3 : Mr.Ashok Pathy
for M/s.Pass Associates



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COMMON JUDGMENT

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All the four Writ Appeals are filed against the order of this Court dated 03.10.2018 made in W.P.No.13887 of 2014, W.P.(MD)No.8917 of 2010 & W.P.No.31042 of 2013.

2.Pattukottai Polytechnic Society is the appellant in W.A.Nos.2245 and 2247 of 2018. Pattukottai Polytechnic College is the appellant in W.A.No.2246 of 2018. Vasantha is appellant in W.A.No.1235 of 2019. Pattukottai Polytechnic College filed Writ Petition (MD) No.8917 of 2010 before the Madurai Bench of this Court challenging the order of Pattukottai Municipality dated 14.06.2010 in Na.Ka.No.7702/80/F1 directing the Pattukottai Polytechnic to provide pathway to Vasantha, appellant in W.A.No.1235 of 2019. The said writ petition was transferred and posted along with the W.P.Nos.31042 of 2013 and 13887 of 2014 filed before this Court by Pattukottai Polytechnic Society and disposed of by the common order dated 03.10.2018.

2(i). W.P.No.31042 of 2013 has been filed by the Pattukottai Polytechnic Society for a direction to the Municipality to execute the sale



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deed in favour of the Society and W.P.No.13887 of 2014 has been filed by the Pattukottai Polytechnic Society challenging the Resolution No.465 dated 30.12.2013 on the file of the Pattukottai Municipality.

3.For the sake of convenience, the Pattukottai Polytechnic Society and Pattukottai Polytechnic College are hereinafter referred to as “Pattukottai Polytechnic Society”. Pattukottai Municipality is hereinafter referred to as “Municipality” and appellant in W.A.No.1235 of 2019 is referred to as “Vasantha”.

Case of the Pattukottai Polytechnic Society:

4.The Government acquired 37.93 acres of land in Pattukottai and Sathankadu Villages in the year 1964 including a portion of the land belonging to one Pitchai Chettiar and his brother Nadimuthu Chettiar. After such acquisition, the said Pitchai Chettiar and Nadimuthu Chettiar possessed four acres of land adjacent to acquired land. Pitchai Chettiar filed O.S.No.737 of 1980 on the file of District Munsif Court, Pattukottai against Pattukottai Municipality, the District Collector, Thanjavur and Pattukottai Polytechnic Society represented by its Correspondent, claiming easementary right of pathway through the acquired land. The



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said suit was contested by Municipality, the District Collector and the Pattukottai Polytechnic Society by filing written statements contending that said Pitchai Chettiar has no easementary right over the land acquired by the Government. The said case of the Municipality, the District Collector and the Pattukottai Polytechnic Society was accepted by the trial Court and the suit was dismissed by the District Munsif, Pattukottai. The First Appeal A.S.No.38 of 1988 filed by Pitchai Chettiar on the file of the Sub Court, Pattukottai also was dismissed. In Second Appeal S.A.No.1630 of 1989 filed by Pitchai Chettiar, this Court directed the Commissioner, Municipality and the District Collector to provide pathway giving minimum of 15 links of 15 feet width, whichever is less without affecting the right of Pattukottai Polytechnic.

4(a). The Pattukottai Polytechnic Society is registered under the Tamil Nadu Societies Registration Act, 1975 vide Registration No.31 of 1982. The Pattukottai Polytechnic Society was established with an object to run, manage or assist Polytechnics, Technical Schools and Colleges teaching technical subjects in order to provide technical education to the socially deprived, economically moderate and educationally backward people of the rural Pattukottai region and to run workshops, factories and



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other activities in connection thereto, to grant scholarship and other financial assistance for the deserving students, etc. The Pattukottai Polytechnic Society established the Pattukottai Polytechnic College offering diploma courses in various branches viz.,

- (1) Civil Engineering
- (2) Electrical and Electronics Engineering
- (3) Electronics and Communication Engineering
- (4) Mechanical Engineering
- (5) Computer Engineering

(6) Mechatronics Engineering approved by the All India Council for Technical Education (AICTE), New Delhi (hereinafter referred to as “AICTE”).

4(b). The students are admitted by following the norms of Directorate of Technical Education, Government of Tamil Nadu. After formation of Pattukottai Polytechnic Society, the Society requested the Government for allotment of land for the purpose of construction of necessary building for running Polytechnic College. As per the AICTE norms, to establish and run a polytechnic in the year 1982, the management must possess minimum 20 acres of land in rural areas. Only



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if 20 acres of minimum land is available, a recognition to the college will be given by AICTE. The Pattukottai Polytechnic is one of the two Government Aided institutions in Thanjavur District. More than 1400 students are studying in the college and the Pattukottai Polytechnic has constructed classroom, laboratories, workshops etc. in the total floor space of 81000 sq.ft. It has well maintained playgrounds for the respective games. The Pattukottai Polytechnic Society is conducting special schemes with the assistance of State and Central Government such as;

1. Community Development through Polytechnics (CDTP)
 2. National Services Scheme (NSS)
 3. National Cadent Corps (NCC)
 4. Canada Indian Institutional Co-operation Project (CIICP)
 5. Industry – Institute Partnership Cell (IIPC)
 6. Entrepreneurship and Management Development Centre (EMDC)
- etc.

4(c). The Government of Tamil Nadu, by G.O.Ms.No.96, (Department of Education, Science & Technology) dated 11.01.1983 permitted the Pattukottai Polytechnic Society to establish a Polytechnic



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in the name and style of “Pattukottai Polytechnic” at Pattukottai from the academic year 1983 – 1984. The Government of Tamil Nadu is hereinafter referred to as “Government”. The Government by G.O.Ms.No.1623 (Rural Development and Local Administration Department) dated 28.10.1983, permitted and directed the Municipality to sell the lands measuring an extent of 20 acres out of 37.93 acres of land of the Municipality and on collecting market value to be fixed by the District Collector, Thanjavur. Pursuant to the said G.O, the Pattukottai Polytechnic Society has requested the Government to direct the Municipality to handover possession of the lands, pending fixation of market value by the District Collector, Thanjavur. The Municipality requested the Tahsildar, Pattukottai to prepare the sub-division of lands so as to handover 20 acres of land to the Pattukottai Polytechnic Society and to retain the remaining lands with the Municipality. The Government by G.O.Ms.No.1801, Rural Development and Local Administration Department dated 05.12.1983 permitted the Municipality to hand over 20 acres of land to the Pattukottai Polytechnic Society and the Municipality on 07.12.1983 handed over 20 acres of land to the Pattukottai Polytechnic Society. The Pattukottai Polytechnic Society after taking possession of 20 acres of land, has fully fenced the land with



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barbed wire and in some places, constructed compound wall. The entire 20 acres of land is in control and management of the college authorities without any disturbance by anybody.

4(d). The land value was fixed by the District Revenue Officer at Rs.135.80 per cent. The Pattukottai Polytechnic Society, by communication dated 31.05.1988 expressed their willingness to pay the value so fixed. The Municipality addressed a letter dated 02.06.1988 to the Government stating that Municipal Council passed Resolution No.68 dated 23.05.1988 and that Municipality refused to accept the land cost fixed by the District Revenue Officer. The Municipality also stated that they are going to file appeal against the said fixation. The Pattukottai Polytechnic Society, on 20.06.1988 sent a cheque for a sum of Rs.2,71,600/- to the Municipality, requested the Municipality to accept the same and execute the sale deed without any delay.

4(e). The Municipality, by their letter dated 27.06.1988 returned the cheque. Subsequently, the District Revenue Officer, fixed the value of the land at Rs.7,20,410/-.



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4(f). The Principal Secretary and Commissioner of Land Administration, by its communication dated 06.03.2002 accepted the cost of the land as fixed by the District Revenue Officer at Rs.7,20,410/- and requested the Government to take decision. In the meantime, the Society requested to permit the Society to make the payment as they are always ready, willing and diligent in making the payment to get the sale deed executed in their favour. However, execution of the sale deed by the Municipality has been prolonged by the Municipality.

4(g). In these circumstances, once again the District Revenue Officer, Thanjavur by his letter dated 29.11.2006 arrived a sum of Rs.86,68,081/- calculating 10% notional increase from 1983 to 1993 and 12% notional increase from 1993 to 2009.

4(h). Considering the report of the District Revenue Officer, the Principal Secretary and Commissioner of Land Administration submitted a report to the Government fixing 10% notional increase for the period from 1983 to 1993 and 12% notional increase from 1993 to 2009 in addition to the value arrived at by the District Revenue Officer and based on the proceedings dated 19.03.2009 of the Principal Secretary and Commissioner of Land Administration, the Government passed



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G.O.Ms.No.248, Municipal Administration and Water Supply

Department, dated 17.12.2009 directing the Municipality to collect

Rs.1,01,70,058/- from the Society and execute the sale deed in its favour.

The Municipality did not challenge the said Government Order. The said

order has become final and binding on the parties. The Society, by letters

dated 08.12.2010, 17.08.2012, 19.03.2013, 08.05.2013, 02.08.2013 and

02.09.2013 requested the Municipality to receive the amount and to

execute the sale deed. On the failure of Municipality to receive the

amount and execute the sale deed, the Pattukottai Polytechnic Society

filed W.P.No.31042 of 2013 praying for Writ of Mandamus directing the

Municipality to execute the sale deed in favour of the Society pursuant to

the direction of the Principal Secretary, Municipal Administration and

Water Supply Department, after collecting Rs.1,01,70,058/-.

4(i). On receipt of notice in the said writ petition, the Municipality in the emergent meeting, passed a Resolution No.465, dated 30.12.2013 to reclaim 20 acres of land handed over to the Pattukottai Polytechnic Society as the said land is required for developmental work to cater the needs of expanding the Pattukottai Municipality. The Municipality also resolved to move the Government to reclaim the land.



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4(j). The Pattukottai Polytechnic Society after obtaining copy of the Resolution No.465, dated 30.12.2013 requested the Municipality to act as per G.O.Ms.No.248, Municipal Administration and Water Supply Department, dated 17.12.2009. But the Municipality did not do so. In such circumstances, the Pattukottai Polytechnic Society had filed W.P.No.13887 of 2014 to quash the Resolution No.465, dated 30.12.2013 of the Municipality.

4(k). After fixation of value of 20 acres of land by Government in G.O.Ms.No.248, Municipal Administration and Water Supply Department, dated 17.12.2009, the Pattukottai Polytechnic Society by their letter dated 31.05.1988 informed the Municipality expressing their willingness to pay a sum of Rs.1,01,70,058/- and requested the Municipality to execute the sale deed.

4(l). A sum of Rs.1,01,70,058/- fixed by the Government by Go.Ms.No.248, Municipal Administration and Water Supply Department, dated 17.12.2009 has become final and is binding on the Municipality and is bound to comply with the same. The Municipality is delaying the execution of the sale deed for about three decades in spite of specific



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orders of the Government. The inaction of the Municipality is contrary to law. The Municipality has failed to discharge its legally bound duty. The Municipality unreasonably and without any valid and legal cause, is not receiving cost fixed by the Government and refusing to execute the sale deed in favour of the Society.

4(m). The Resolution No.465, dated 30.12.2013 of the Municipality is without jurisdiction and also exceeds jurisdiction. As per the Government order, the Municipality handed over possession of 20 acres of land on 07.12.1983 and the Society has put up building and commenced Polytechnic and after three decades, the Municipality has no jurisdiction to pass the said resolution. The G.O.Ms.No.1801 Rural Development and Local Administration Department, dated 05.12.1983 and G.O.Ms.No.248, Municipal Administration and Water Supply Department, dated 17.12.2009 have become final.

4(n). The resolution passed by the Municipality is malafide as the Municipality has passed resolution after receiving notice in writ petition No.31042 of 2013 filed by the Pattukottai Polytechnic Society for a direction to the Municipality to execute the sale deed. The Government



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taking into account the importance of education to the students in rural areas, directed the Municipality to hand over the land pending fixation of value of the land by the District Collector in the year 1983 and Municipality also handed over 20 acres of land on 07.12.1983. The Society has put up construction and is running Polytechnic for more than 30 years. The Government of Tamil Nadu has allotted land to several institutions throughout Tamil Nadu to impart education. The Pattukottai Polytechnic Society is receiving aid from the Government to run the Polytechnic. The present resolution passed by the Municipality is biased and colourable exercise of power.

4(o). The Municipality has not utilised remaining 17.93 acres of land vested with except construction of overhead tank. Only to pressurise the Pattukottai Polytechnic Society, the Municipality has passed the resolution. The resolution is barred by principles of equitable estoppel. Based on the Government orders, possession was handed over to the Pattukottai Polytechnic Society. The Pattukottai Polytechnic Society developed the entire land by spending huge amount over a period of three decades on buildings, staff and teachers room, creation and maintenance of infrastructures, lab facilities, workshops, sports,



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maintenance expenses etc. on expectation that Municipality would execute the sale deed after receiving value of the land to be fixed by the District Collector. The Municipality, having kept quiet for 30 years permitting the Pattukottai Polytechnic Society to develop the land, ought to have received the value of the land and executed the sale deed in favour of the Society.

4(p). The Municipality has not developed remaining 17.93 acres of land in their possession. Without any concrete plan as to how the land is required for their development activities, the Municipality has passed the resolution. There is no plan as to how much land is required for future development. The resolution is opposed to the principles of equity, advancement of education and fundamental rights of students and prayed for allowing all the writ petitions.

Case of the Government:

5. The Government filed counter affidavit extracting the averments in the affidavit referring to Government orders and various proceedings of Municipality as stated by the Pattukottai Polytechnic Society and contended as follows:



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(1) The total extent of 37.93 acres of land were acquired and handed over to the Municipality for water supply scheme in the year 1964.

(2) As per the Government orders, the Municipality after sub-division, handed over 20 acres out of 37.93 acres of land to the Pattukottai Polytechnic Society pending fixation of land value.

(3) G.O.Ms.No.248, Municipal Administration and Water Supply Department, dated 17.12.2009 was placed before the Municipal Council on 30.12.2013. The Council passed Resolution No.465, dated 30.12.2013 requesting the Government to redeliver the 20 acres of land already handed over to the Society for developmental activities and to send a proposal to the Government. The resolution is for the welfare of the Municipality and general public, there is no private benefit for the Municipality. The Municipality has jurisdiction to pass the said resolution. The resolution is not biased or arbitrary or malafide. It is not contrary to any law and does not interfere with the principles of equitable estoppel. The welfare of general public is primary interest and any private interest of the Society is only secondary and prayed for dismissal of all the writ petitions.



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Case of the Municipality:

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6. The Municipality filed counter affidavits in W.P.(MD)No.8917 of 2010 & W.P.No.13887 of 2014 and did not file any counter affidavit in W.P.No.31042 of 2013. The Municipality referred to various proceedings with regard to handing over 20 acres of land to the Society and stated that G.O.Ms.No.248, Municipal Administration and Water Supply Department, dated 17.12.2009 was placed before the Municipal Council on 30.12.2013. The Council passed Resolution No.465, dated 30.12.2013 to recover 20 acres of land from the Society for developmental work. The Municipality by its letter dated 03.01.2014 in Na.Ka.No.3300/85/F1 requested the Government to permit the decision of the Municipal Council to make use of 20 acres of land for Municipal developmental works to fulfil the basic needs of the people in Pattukottai Town instead of executing sale deed in favour of Pattukottai Polytechnic Society as per G.O.Ms.No.248, Municipal Administration and Water Supply Department, dated 17.12.2009. The Municipality also stated that said request is pending with the Government and Municipality will abide by the decision of the Government.

6(a). After acquisition of land, the pathway leading to the land belonging to Pitchai Chettiar and his brother Nadimuthu Chettiar were



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severed. Pitchai Chettiar filed O.S.No.737 of 1980 on the file of District Munsif Court, Pattukottai against Pattukottai Municipality, the District Collector, Thanjavur and Pattukottai Polytechnic represented by its Correspondent and A.S.No.38 of 1988 on the file of Sub Court, Pattukottai. O.S.No.737 of 1980 and A.S.No.38 of 1988 claiming pathway were dismissed and the access to their land were denied. Pitchai Chettiar filed S.A.No.1630 of 1989 before this Court. Pending Second Appeal, said Pitchai Chettiar died. His wife Vasantha was impleaded as legal heir of Pitchai Chettiar. In S.A.No.1630 of 1989, this Court, by judgment dated 25.06.2002, directed the District Collector, Thanjavur and Municipality to provide pathway to Vasantha, wife of Pitchai Chettiar, without affecting the rights of Pattukottai Polytechnic. After notice to Pattukottai Polytechnic Society and Vasantha and giving them a personal hearing, the Municipality decided to provide pathway to an extent of 8.2 cents on the western portion of the land allotted to the Pattukottai Polytechnic Society as there is no alternate way to access Vasantha land. The order dated 14.06.2010 passed by the Municipality to provide pathway to Vasantha is valid and legal.

6(b). The Municipality filed additional counter affidavit in W.P.(MD)No.8917 of 2010 reiterating the very same averments and



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stated that as per the norms of AICTE, five acres of land is sufficient to run a College in a rural area. The Society has not paid the value of the land and hence, has no right to deny the pathway and prayed for dismissal of all the writ petitions.

6(c). The Municipality also filed counter affidavit in W.P.No.13887 of 2014 after extracting the averments in the affidavit with regard to the request of the Society passing G.O., handing over possession of 20 acres of land to the Society and stated that on 30.12.2013, G.O.Ms.No.248, Municipal Administration and Water Supply Department, dated 17.12.2009 was placed before the Municipal Council and Municipal Council decided to reclaim the land which was handed over to the Pattukottai Polytechnic Society for use of Municipal developmental activities.

7. The learned Single Judge considering the averments in the affidavits, counter affidavits, additional counter affidavit, arguments of counsel for the parties and contention of the learned Additional Advocate General that the Society is utilising only 8 acres of land out of 20 acres of land and 12 acres of land is vacant, disposed of the writ petitions stating



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that the Pattukottai Polytechnic Society is entitled to retain 8 acres of land and directed the respondents therein, the Government and Municipality to take possession of remaining 12 acres of land from the Pattukottai Polytechnic Society. The learned Single Judge also directed the respondents therein to fix the land cost for 8 acres of land, where the Polytechnic College is situated and to inform the land cost to the Pattukottai Polytechnic Society within four weeks from the date of receipt of copy of that order.

8. Challenging the said common order dated 03.10.2018 made in W.P.(MD)No.8917 of 2010, W.P.Nos.31042 of 2013 & 13887 of 2014, the Pattukottai Polytechnic Society filed three appeals in W.A.Nos.2245 to 2247 of 2018.

9. Vasantha, the respondent in W.P.(MD)No.8917 of 2010 filed W.A.No.1235 of 2019 challenging the common order dated 03.10.2018 made in W.P.(MD)No.8917 of 2010.

10. The learned counsel appearing for the Society submitted that the Government, by G.O.Ms.No.1623 (Rural Development and Local



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Administration Department) dated 28.10.1983 allotted 20 acres of land in Pattukottai Municipality and Sathangadu Village to the Society in Pattukottai, Thanjavur District. By subsequent G.O.Ms.No.1801, Rural Development and Local Administration Department, dated 05.12.1983, the Government directed the Municipality to handover 20 acres of land to the Society pending fixation of value by the District Collector. The Municipality acted on the G.O.Ms.No.1801, Rural Development and Local Administration Department, dated 05.12.1983 and on 07.12.1983, handed over possession of 20 acres of land to the Society after subdivision by Tahsildar. The Municipality never challenged the said G.O. at any point of time, for more than 30 years, including in the counter affidavit filed in the writ petitions filed by the Pattukottai Polytechnic Society. The learned Single Judge, by the order passed in the writ petitions modified the G.Os. when the G.Os have not been challenged by the Municipality. The Pattukottai Polytechnic Society never disputed the value fixed by the Government and accepted the value with intention to purchase the land. The Pattukottai Polytechnic Society was always ready and willing to complete the transaction.



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10(a). The Municipality did not have any scheme for the alleged developmental project. Only when this Court asked for the details of project in the year 2019, the Municipality had prepared the same over the weekend without any enquiry, survey of the land and without taking any effort for identifying the water sources. The Municipality has not submitted any Scheme to the Government to utilise 20 acres of land allotted to the Pattukottai Polytechnic Society when the balance land remained with the Municipality was unutilised. The remaining 17.93 acres of land was reserved for the Municipality and even that extent of land was not utilised by the Municipality. The Municipality has not filed any writ petition for recovery of land allotted and handed over to the Pattukottai Polytechnic Society. When there is no challenge by the Municipality, the learned Single Judge erred in interfering and modifying the G.O.Ms.No.1623, (Rural Development and Local Administration Department) dated 28.10.1983 and G.O.Ms.No.1801, Rural Development and Local Administration Department, dated 05.12.1983. The learned Single Judge failed to consider that Pattukottai Polytechnic Society started Polytechnic College prior to 1994 and Society has to comply with the conditions prevailing at that time with regard to requirement of land to start a Polytechnic College in rural area. As per



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AICTE approval process handbook 2018-2019, the total requirement of land is 22.9 acres for starting Polytechnic College in rural areas. AICTE, by the letter dated 03.02.1994 directed the Pattukottai Polytechnic Society to acquire additional land to meet out its norms.

10(b). Again, AICTE, by letter dated 17.03.1994 directed the Pattukottai Polytechnic Society to acquire additional lands apart from 20 acres of land to fulfil its norms. In view of the above letters, the Pattukottai Polytechnic Society is required to have 20 acres of land and the same cannot be reduced. When the Pattukottai Polytechnic Society applied for additional courses, the Director of Technical Education, by its letter dated 09.01.2004 informed the Society that it is mandatory to possess 20 acres of land to run a Polytechnic College and if extent of land is reduced, AICTE will not grant approval for intake of students for subsequent years. The learned Single Judge failed to consider the letter of the Director of Technical Education dated 09.01.2004. Pattukottai Polytechnic College run by the Pattukottai Polytechnic Society is a Government Aided Institution. 90% of the admission are made only through Government allotment. Government allowed fees alone is being collected. 80% of the fees collected are reinvested in the Polytechnic



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itself for the benefit of developing the institution. By reducing the land, the education of the students will be affected as Government will not give aid in future for new courses and students will be at the mercy of self-financing institutions.

10(c). The learned counsel appearing for the Pattukottai Polytechnic Society further submitted that the learned Single Judge failed to consider the calculation filed by the Pattukottai Polytechnic Society with regard to requirement of land. Apart from building, the Society is using the land for playground for volley ball court, football ground, cricket ground, canteen block, etc. The Pattukottai Polytechnic Society has dug 10 deep borewells which provide water for the entire college which includes for sanitary purpose and drinking for 1400 students, 105 faculty and other staff members. The Society also installed 85.86 kw Electric Power Loom and its power loom and service is in the said area. The Pattukottai Polytechnic Society is also parking its 12 buses in the land on the western side. The application of the Pattukottai Polytechnic Society for construction of two blocks was rejected on the objection of Municipality. The learned Single Judge ought to have considered the Doctrine of Promissory Estoppel and Legitimate Expectation. The



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learned Single Judge failed to consider the documents filed by the Pattukottai Polytechnic Society on the proposition of law, but only considered the documents relied on by the Municipality. The learned Additional Advocate General who appeared for the Municipality in the Writ Petitions did not furnish copies of the said documents put against the Society. The Society did not have any opportunity to rebut the same.

10(d). During the time of hearing of writ petitions, the learned Additional Advocate General relied on certain documents. The learned counsel who appeared for the Society in the writ petitions objected to the same as the said documents were not furnished to them. The learned Additional Advocate General represented that he will withdraw the said documents. The learned counsel for the Society also filed a memo in this aspect. Contrary to the said submissions of the learned Additional Advocate General that he will withdraw the said documents, the learned Single Judge relied on the said documents in Para 28 of the order in the writ petitions and passed the order which is erroneous.

10(e). This Court, by the judgment dated 25.06.2002 in S.A.No.1630 of 1989 directed the Municipality to provide pathway



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without affecting the rights of Pattukottai Polytechnic. The learned Single Judge failed to see that Municipality passed the impugned order in W.P.(MD)No.8917 of 2010 to remove the superstructure (canteen block) of the Pattukottai Polytechnic Society to provide passage. The said order is passed only with a view to interfere with the rights of the Pattukottai Polytechnic. This Court, in the Second Appeal directed the Municipality to provide pathway without affecting the rights of the Pattukottai Polytechnic. The Municipality is trying to provide pathway by removing canteen block, other superstructure and trees which affects the rights of the Pattukottai Polytechnic.

10(f). The learned counsel for the Pattukottai Polytechnic Society further submitted that the Government allotted 20 acres of land from and out of 37.93 acres acquired for water scheme as the Municipality utilised only 6.56 acres and remaining land was unutilised and kept vacant. The documents referred to by the learned Single Judge and calculation of usage of land mentioned in Para 28 of the order is still unutilised for water scheme. The Municipality found that balance land in possession of Municipality is not feasible for establishing water supply scheme. They shifted the water scheme near the banks of Nasuvini river. Infact, the



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Municipality has dumped garbage and now opened a bus stand in the said land. The finding of this Court in the writ petitions that the land is required for Municipality for establishing water scheme for providing water to the public is not correct. On the other hand, the land in possession of the Pattukottai Polytechnic Society is used for the benefit of the students who are studying in the Polytechnic College in rural area. No land is left unused.

10(g). The learned counsel for the Pattukottai Polytechnic Society further submitted that in the impugned Resolution No.465, dated 30.12.2013 also, the Municipality has not mentioned that land in question is required for water scheme. It has been generally mentioned that land is required for planning and developmental activities (நகர வளர்ச்சி திட்ட பணி) of Pattukottai Municipality. Now the Municipality is using the land for dumping garbage and established a bus stand. Learned counsel for the Society also produced photographs to that effect and prayed for allowing W.A.Nos.2245 to 2247 of 2018 and dismissal of W.A.No.1235 of 2019.



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11. In W.A.Nos.2245 to 2247 of 2018, Municipality has filed common counter affidavit with regard to contentions of the Pattukottai Polytechnic Society in the grounds of appeal. The Municipality mentioned the Government Orders and proceedings with regard to permission to sell 20 acres of land to the Society, sub-division and handing over the land to the Pattukottai Polytechnic Society. The Pattukottai Municipal Council did not take any action on G.O.Ms.No.248, Municipal Administration and Water Supply Department dated 17.12.2009 fixing Rs.1,01,70,058/- as market value of land, but postponed the subject. In the counter affidavit filed by the Municipality, it has been stated that Municipality refused to accept the land cost even though the Pattukottai Polytechnic Society was ready to pay, due to the reason that land is required for the Municipality for various developmental activities. The Municipality, by the Resolution No.465, dated 30.12.2013 has resolved to request the Government to reclaim the land of 20 acres already handed over to the Pattukottai Polytechnic Society, for developmental activities to the people of Pattukottai Municipality. The said proposal has been sent to the Government which is under consideration of the Government. As per the revised norms of AICTE, 5 acres of land is sufficient for establishing a



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Polytechnic College in rural areas. The learned Single Judge has passed the order allotting 8 acres of land to the Pattukottai Polytechnic Society and allotted the unutilised 12 acres of land to the Municipality. The learned Single Judge has considered all the facts and norms of AICTE and water supply scheme to the people of Pattukottai Town and passed the order without causing disturbance to the Polytechnic College. The Municipal Council, on 20.09.2018 passed the Resolution No.513 for implementation of Water Supply Scheme to the tune of Rs.10 Crores.

12. The learned Advocate General appearing for the Municipality submitted that the Society was formed just few months prior to the allotment of land. At the time when Polytechnic College was started, they offered only two courses. The Government when allotted 20 acres of land to the Pattukottai Polytechnic Society, permitted the Municipality to retain 11 acres of land for expanding water scheme in addition to 6.93 acres. The land in question are water bodies. It is for the Municipality to decide as to how to utilise the land in question. The learned Advocate General further submitted that the Pattukottai Polytechnic Society in the affidavit filed in the writ petitions now, has stated that they are offering 6 courses. As per the present norms of AICTE, 4 acres is sufficient to start



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and run a Polytechnic College. The learned Single Judge has ordered the Pattukottai Polytechnic Society to retain 8 acres of land. The Society cannot compel the Municipality to execute the sale deed. The Municipality wanted higher value. Vasantha, appellant in W.A.No.1235 of 2019 got a judgment in S.A.No.1630 of 1989 for providing pathway. In view of the same, Municipality and Government have to provide pathway to Vasantha. The learned Single Judge considered all the materials and passed the order directing the Pattukottai Polytechnic Society to retain 8 acres of land and allotted 12 acres to the Municipality. There is no error in the said order and prayed for dismissal of the appeals.

13. The learned counsel appearing for Vasantha, appellant in W.A.No.1235 of 2019 submitted that this Court by judgment dated 25.06.2002 in S.A.No.1630 of 1989 directed the District Collector, Thanjavur and Pattukottai Municipality to provide pathway to Vasantha. Municipality passed the order dated 14.06.2010 in Na.Ka.No.7702/80 F1 stating that as per the judgment of this Court in S.A.No.1630 of 1989, pathway can be provided only in the land in possession of Pattukottai Polytechnic Society through Canteen Block at the corner of the



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compound wall on the western boundary. The learned Single Judge has not given any finding with regard to entitlement of pathway by Vasantha as per the judgment of this Court in S.A.No.1630 of 1989. In view of the same, Vasantha has filed W.A.No.1235 of 2019 challenging the order passed in W.P.(MD)No.8917 of 2010 and prayed for allowing W.A.No.1235 of 2019 by providing pathway to Vasantha.

14. Heard the learned counsel appearing for the Society, Vasantha as well as the learned Advocate General appearing for the Municipality and the learned Special Government Pleader appearing for the Government and perused the entire materials on record.

15. The admitted facts are as follows:

(i). The Government in the year 1964 acquired 37.93 acres of land in Pattukottai and Sathankadu Village and handed over the same to Pattukottai Municipality for water works scheme. Out of 37.93 acres of land, the Municipality utilised 6.56 acres of land for the said purpose. Remaining lands were kept vacant.

(ii). The Government on application by the Pattukottai Polytechnic Society to start a Polytechnic College at Pattukottai, by G.O.Ms.No.96,



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(Department of Education, Science & Technology) dated 11.01.1983

granted permission.

(iii). The Government by G.O.Ms.No.1623, (Rural Development and Local Administration Department) dated 28.10.1983 permitted the Municipality to sell 20 acres of land out of 37.93 acres of land to the Pattukottai Polytechnic Society after calculating the market value to be fixed by the District Collector.

(iv). At the request of Municipality, on 26.11.1983 Tahsildhar subdivided 37.93 acres of land and identified 20 acres of land to be handed over to the Pattukottai Polytechnic Society.

(v). The Government by G.O.Ms.No.1801, Rural Development and Local Administration Department dated 05.12.1983, permitted the Municipality to hand over 20 acres of land to the Pattukottai Polytechnic Society pending fixation of market value for construction of building to start a Polytechnic college. The Municipality, on 07.12.1983 handed over 20 acres of land to the Pattukottai Polytechnic Society.



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(vi). On 13.04.1988, the District Revenue Officer fixed the land value at Rs.135.80 per cent. The Pattukottai Polytechnic Society on 31.05.1988 addressed a letter to the Municipality stating that they are ready to pay the amount of Rs.2,70,242/- accepting the value fixed by the District Revenue Officer. On 02.06.1988, the Municipality informed the District Revenue Officer that they are not accepting the value so fixed and they are filing appeal.

(vii). On 20.06.1988, the Pattukottai Polytechnic Society sent a cheque for Rs.2,71,600/- and on 27.06.1988, the Municipality refused to accept the cheque and returned the same.

(viii). At the request of the Municipality, the District Revenue Officer fixed land value at Rs.7,20,410/- and sent report to the Special Commissioner and Commissioner of Land Administration. Based on the report of District Revenue Officer, the Commissioner of Land Administration sent his report to the Government and the land value was fixed at Rs.1,01,70,058/- by adding notional increase.

(ix). Based on the recommendation of Commissioner of Land Administration, the Government by G.O.Ms.No.248, Municipal



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Administration and Water Supply Department, dated 17.12.2009 fixed the value of land together with notional increase at 10% on the said amount from 1983 to 1993 and 12% notional increase on the said amount from 1993 to 2009 at Rs.1,01,70,058/- and permitted the Municipality to collect the said amount from the Pattukottai Polytechnic Society and execute the sale deed in favour of the Pattukottai Polytechnic Society.

(x). The Pattukottai Polytechnic Society by letters dated 08.12.2010, 17.08.2012, 19.03.2013, 08.05.2013, 02.08.2013 and 02.09.2013 informed the Municipality about their willingness to pay the said amount and requested to execute the sale deed.

(xi). The Pattukottai Polytechnic Society on 09.11.2013 filed W.P.No.31042 of 2013 for a direction to the Municipality to collect Rs.1,01,70,058/- and execute the sale deed in its favour as Municipality did not respond to the letters of the Society. The Municipality did not file any counter in the said writ petition.

(xii). The Municipality passed the Resolution No.465, dated 30.12.2013 reclaiming 20 acres of land from the Society as the same is



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required for planning and development scheme (நகர வளர்ச்சி திட்ட பணி).

The Pattukottai Polytechnic Society, in April 2014 filed W.P.No.13887 of 2014 challenging the said Resolution No.465, dated 30.12.2013 of Municipal Council.

(xiii). Earlier, one Pitchai Chettiar filed O.S.No.737 of 1980 on the file of District Munsif Court, Pattukottai against Pattukottai Municipality, the District Collector, Thanjavur and Pattukottai Polytechnic represented by its Correspondent seeking easementary right of pathway to his land as the said pathway was blocked when 37.93 acres of land were acquired by the Government. The said suit and the First Appeal filed by Pitchai Chettiar were dismissed. Challenging the same, Pitchai Chettiar filed S.A.No.1630 of 1989. Pending Second Appeal, Pitchai Chettiar died. His wife Vasantha was impleaded as appellant in S.A.No.1630 of 1989.

(xiv). This Court by the judgment dated 25.06.2002 directed the Municipality and District Collector to provide pathway to Vasantha without affecting the right of the Pattukottai Polytechnic Society. The Municipality by letter dated 14.06.2010 directed the Pattukottai Polytechnic Society to provide pathway to Vasantha on the Western side



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to the extent of 8.2 cents from and out of 20 acres of land by removing the canteen block, other things and trees within one month. The Municipality further stated that compensation for 8.2 cents will be collected from Vasantha, wife of Pitchai Chettiar, who died, pending Second Appeal and handed over the same to the Pattukottai Polytechnic Society. The Municipality in the said letter has further stated that the Pattukottai Polytechnic Society will be provided 8.2 cents on the South East corner of the land belonging to the Municipality.

(xv). This Court directed the Municipality to provide pathway to Vasantha without affecting the right of the Pattukottai Polytechnic.

16. Based on the above facts, we first proceed to decide the issue in W.P.(MD)No.8917 of 2010 (W.A.No.2246 of 2018).

It is seen that the Government acquired 37.93 acres in the year 1964. The Revenue Department acquired the lands to an extent of 19.35 acres in Pattukottai Village and also land measuring 18.58 acres in Sathankadu village for construction of summer water storage tank during the year 1964. The total extent of 37.93 acres of land acquired under the provisions of the Land Acquisition Act, 1894 was handed over to Pattukottai Municipality for water supply scheme in the year 1964.



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16(a). Pitchai Chettiar and his brother Nadimuthu Chettiar made a representation to Pattukottai Municipality alleging that when the Government acquired the land in the year 1964, pathway to their land was blocked. The Municipality did not consider their representation. Therefore, Pitchai Chettiar filed O.S.No.737 of 1980 on the file of the District Munsif Court, Pattukottai, seeking easementary right to his land. The said suit was dismissed and the First Appeal filed in A.S.No.38 of 1988 on the file of the Sub Court, Pattukottai also was dismissed. Challenging the dismissal of the First Appeal, Pitchai Chettiar filed S.A.No.1630 of 1989 before this Court. Pending Second Appeal, he died and his wife Vasantha was impleaded as his legal heir. In the Second Appeal, this Court, by judgment dated 25.06.2002 directed the District Collector and Municipality to provide pathway to Vasantha without affecting rights of the Pattukottai Polytechnic. Relevant portion is extracted hereunder:

“This Second appeal coming for hearing on this day upon perusing the grounds of appeal, the judgment and decree of the Lower Appellate Court and the Court of First instance and the material papers in the suit and upon hearing the arguments of Mr.K.Chandrasekaran, Advocate for the appellant and of Mr.V.S.Srinivasan, Advocate for the 2nd respondent and Mr.S.Sathiyamurthy,



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Government Advocate for the 3rd respondent and of Mr.T.R.Rajaraman, Advocate for the 4th respondent and this Court allowing this appeal and in modification of the judgment and decree of the Courts below doth order and decree as follows:

- (1) that the second respondent and third respondent herein shall provide a right of way to the appellant/first plaintiff to reach his property in a manner known to law giving a minimum of 15 links of 15 feet width which ever is less, but without affecting the rights of the fourth respondent herein expeditiously in any event within a period of six months from today and the appellant/second plaintiff shall meet the entire expenses to be incurred by the second and third respondent herein in this regard.
- (2) That there is no costs in this appeal. ”

16(b). As per the above judgment of this Court in Second Appeal, Municipality and the District Collector are to provide pathway to Vasantha to reach her land without affecting rights of the Pattukottai Polytechnic. But the Municipality, by the order dated 14.06.2010 in Na.Ka.No.7702/80/F1 informed the Pattukottai Polytechnic Society to execute the judgment of this Court, pathway can be provided only at the



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corner of the compound wall on the western boundary through the canteen of Polytechnic College and directed the Pattukottai Polytechnic to remove the canteen, trees and other superstructures within one month. This order is contrary to the judgment of this Court dated 25.06.2002 made in S.A.No.1630 of 1989. In the said judgment, this Court directed the District Collector and Municipality to provide pathway to Vasantha without affecting rights of the Pattukottai Polytechnic. Hence the order dated 14.06.2010 of the Municipality directing the Society to remove the canteen, other structures and trees to provide pathway, affects the rights of the Pattukottai Polytechnic as it will be put to loss. When the canteen and other structures are removed, the Pattukottai Polytechnic Society has to construct a new canteen and other structures for the benefit of the students, faculty members, other teaching and non-teaching staffs. Curiously in the same order, the Municipality has stated that value of the land will be collected from Vasantha and the same will be given to the Pattukottai Polytechnic Society. The Municipality also stated that the Society will be provided 8.2 cents to the Pattukottai Polytechnic equivalent to the land on the South Eastern side of the land belonging to the Municipality. The Municipality has not stated any reason for not exploring possibility for providing pathway to Vasantha on the South



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Eastern side, which the Municipality is willing to hand over to the Pattukottai Polytechnic Society.

16(c). A reading of the impugned order shows that Municipality failed to consider the judgment of this Court dated 25.06.2002 made in S.A.No.1630 of 1989 properly and on misconception has passed the order dated 14.06.2010 affecting the rights of the Pattukottai Polytechnic.

16(d). For the above reasons, the order of the Municipality dated 14.06.2010 is liable to be quashed and is hereby quashed. Accordingly, W.A.No.2246 of 2018 stands allowed setting aside the common order dated 03.10.2018 passed in W.P.(MD)No.8917 of 2010.

17. As far as W.A.No.1235 of 2019 (W.P.(MD)No.8917 of 2010) filed by Vasantha is concerned, learned counsel appearing for Vasantha contended that the learned Single Judge has failed to consider W.P.(MD)No.8917 of 2010 filed by the Pattukottai Polytechnic College with regard to pathway and has not given any finding with regard to said pathway. As per the judgment of this Court dated 25.06.2002 made in S.A.No.1630 of 1989, the said Vasantha is entitled to pathway to reach



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her land and it is for the District Collector and Pattukottai Municipality to provide such pathway without affecting rights of the Pattukottai Polytechnic. With the above observations, W.A.No.1235 of 2019 is disposed of.

18. As far as W.P.Nos.31042 of 2013 & 13887 of 2014 (W.A.Nos.2247 & 2245 of 2018) are concerned, the Society sought permission from the Government to start a Polytechnic College at Pattukottai from the year 1983 onwards. The Government, by G.O.Ms.No.96, (Department of Education, Science & Technology) dated 11.01.1983 granted such a permission. The Pattukottai Polytechnic Society requested the Government to allot 30 acres of land either on outright sale or on lease. The Government, by G.O.Ms.No.1623 (Rural Development and Local Administration Department) dated 28.10.1983, permitted the Pattukottai Municipal Council to spare 20 acres of land out of 37.93 acres of land of the Municipality to the Pattukottai Polytechnic Society for starting a Polytechnic College to serve for the common cause of the students of the locality. The Government, in the said G.O., permitted the Municipal Council to sell 20 acres of land to the Pattukottai Polytechnic Society from and out of 37.93 acres of land belonging to the



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Municipality. It is to be taken note of that 37.93 acres was acquired by the Government and handed over to the Municipality for the purpose of establishing water supply scheme in the year 1964.

18(a). The Municipality till 1983 utilised only 6.56 acres of land for water supply head works of Municipality out of 37.93 acres and remaining lands were kept vacant. The Municipality did not have any scheme under consideration for utilising remaining extent of land. The Government, taking into consideration that Municipality did not have any scheme for utilising the remaining extent of land, permitted the Municipality to sell 20 acres of land to the Pattukottai Polytechnic Society. The Government, by way of caution permitted the Municipality to retain 11 acres in addition to 6.56 acres to be utilised for future scheme, if any. Paragraphs 3 to 5 of the said G.O.Ms.No.1623 (Rural Development and Local Administration Department) dated 28.10.1983 are extracted hereunder for easy reference:

“3. The Pattukottai Municipality is in possession of 37.93 acres of land in Pattukottai and Sathangadu Villages i.e under R.S. No. 172A/1, 176/1 and 177A/1B in Pattukottai Village and under R.S.No. 112/2, 113/2B, 114/6B, 144/2B and 145 to 147 in Sathangadu Village.



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The total extent of land is 37.93 acres, out of which 6.56 acres of in land is used for Water Supply Head works, of the Municipality. At present there are no schemes under consideration by the Pattukottai Municipal Council for utilizing the balance extent of land. By way of abundant caution, the Pattukottai Municipal Council could retain about 11 acres and spare 20 acres of land to the Pattukottai Polytechnic society for opening the polytechnic to serve for the common cause of the students of the locality.

4. The Government permit the Pattukottai Municipal Council to sell extend of 20 (twenty) acres of land out of 37.93 acres of land in its possession to the Pattukottai polytechnic Society collecting the market value to be fixed by the District collector, in relaxation of the ban orders issued in G.O. Ms. No.730, R.D&LA Department Dated 14.4.1976.

5. The Director of Municipal Administration, Madras is requested to get the specific area of 20 acres earmarked for sale to the Pattukottai Polytechnic Society after reserving about 11 acres for the Municipality in suitable location best suited for the expansion of water works scheme in future in consultation with the Municipality and also address the Collector of Thanjavur, obtain the particulars of the market value of the lands to be sold, and communicated the particulars to the Commissioner, Pattukottai Municipality for adoption. ”



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WEB COPY 18(b). The Government permitted the Municipality to sell 20 acres of land after calculating market value to be fixed by the District Collector. The Director of Municipal Administration by his letter dated 21.11.1983 requested the Government to give permission to hand over the 20 acres of land to the Pattukottai Polytechnic Society pending fixation of market value. The Municipality, by letter dated 26.11.1983 requested the Tahsildhar, Pattukottai to sub-divide the land and hand over 20 acres of land to the Pattukottai Polytechnic Society. The Government, by G.O.Ms.No.1801, Rural Development and Local Administration Department dated 05.12.1983 permitted Pattukottai Municipal Council to hand over 20 acres of land to the Pattukottai Polytechnic Society pending fixation of land value by the District Collector, Thanjavur and subject to observance of the terms and conditions to be prescribed by him. Based on such permission, the Municipality on 07.12.1983 handed over 20 acres of land situated in Pattukottai and Sathankadu Village to the Pattukottai Polytechnic Society.

18(c). From the above materials, it is seen that even though 37.93 acres were acquired in the year 1964 for establishing water supply head



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works, the Municipality utilised only 6.56 acres of land for water supply head works by constructing over head tank and remaining lands were kept vacant. The Municipality also did not have any scheme under consideration to utilise the remaining land. The Pattukottai Polytechnic Society has 20 acres of land handed over to it and had put up construction and started imparting diploma courses. In the affidavit filed in support of the writ petitions, the Pattukottai Polytechnic Society has stated that they are conducting six diploma courses apart from conducting various social activities to educate the students. This contention is not denied and disputed by the Municipality.

18(d). Further, the learned counsel appearing for the Pattukottai Polytechnic Society at the time of arguments in the writ appeals submitted that the Society has established 10 deep bore wells and overhead tank to supply water for the students, staff both teaching and non-teaching and use of the laboratories and for sanitary purpose etc. The Society also constructed canteen for the benefit of the students and staff and established playground for volley ball court, football, cricket apart from superstructures put up by them. Further, the Polytechnic College is parking 12 buses owned by them which is used to transport students and staff. This contention of the learned counsel appearing for the



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Pattukottai Polytechnic Society is not disputed by the Municipality.

WEB COPY 18(e). Further it is seen from the sketch filed in the typed set of papers that there are ground level service reservoir, overhead tank, pump room, staff quarters, 10 numbers of deep bore wells, pipeline connecting to ground level service reservoir and pipe line connecting to overhead tank. From the sketch itself, it is seen that entire 20 acres of land handed over to the Pattukottai Polytechnic Society is being utilised by them and the contention of the Municipality that the Pattukottai Polytechnic Society has utilised only 8 acres of land is not correct. Any education institution apart from superstructures for conducting classes, laboratories and staff rooms etc., must also have play ground for the physical activities of the students. Further the learned counsel appearing for the Pattukottai Polytechnic Society contended that during arguments before the learned Single Judge, the learned Additional Advocate General wanted to rely on certain documents which was objected by the Senior Counsel appearing for the Pattukottai Polytechnic Society on the ground that those documents were not furnished to the Society. On such objection, learned Additional Advocate General has submitted that he is withdrawing those documents. The learned counsel appearing for the Pattukottai Polytechnic Society also filed a memo recording their



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objection, which is in the file. The contention of the learned counsel appearing for the Society that the learned Single Judge erroneously relied on the documents filed and withdrawn by the learned Additional Advocate General and objected by the Society has considerable force and is acceptable, as the learned Advocate General did not dispute the same.

19. From the materials on record and especially from the sketch, it is seen that the Pattukottai Polytechnic Society after taking possession of 20 acres of land has fully fenced the land with barbed wire and constructed compound wall. The entire 20 acres of land is in control and management of the college authorities. The Society has constructed massive building and provided other facilities in entire 20 acres of land and running college without any disturbance by anybody.

20. After certain proceedings, the Government fixed value of land at Rs.1,01,70,058/- by G.O.Ms.No.248, Municipal Administration and Water Supply Department, dated 17.12.2009. The Society by their letters dated 08.12.2010, 17.08.2012, 19.03.2013, 08.05.2013, 02.08.2013 and 02.09.2013 informed the Municipality that they are willing to pay the said amount and get the sale deed executed in their favour. When the



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Pattukottai Polytechnic Society did not get any response from the Municipality for the above letters dated 08.12.2010, 17.08.2012, 19.03.2013, 08.05.2013, 02.08.2013 and 02.09.2013, they filed W.P.No.31042 of 2013 for a direction to the Municipality to collect the said amount and execute the sale deed in their favour. After filing the said writ petition only, the Municipal Council has passed Resolution No.465, dated 30.12.2013 requesting the Government for reclaiming 20 acres of land from the Pattukottai Polytechnic Society. In the said resolution, the Municipal Council did not specifically mention any scheme for utilisation of land. On the other hand, the Municipal Council has stated that the land allotted to the Pattukottai Polytechnic Society is required for planning and developmental activities (வளர்ச்சி திட்ட பணி) of Pattukottai Municipality. The Municipality has not produced any materials to show that said resolution was forwarded to the Government with request for reclaiming the 20 acres of land.

21. The Pattukottai Polytechnic Society filed W.P.No.13887 of 2014 challenging the said resolution. In the Counter affidavit filed in W.P.No.13887 of 2014, the Municipality has not mentioned any scheme for implementation of which 20 acres of land is required by Municipality.



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According to the learned counsel appearing for the Pattukottai Polytechnic Society, only when the learned Single Judge during the hearing of the writ petitions on September 2018, in the writ petitions sought details of any scheme to be implemented, the Municipality hurriedly in the weekend prepared the scheme to be implemented by it.

22. It is further contention of the learned counsel appearing for the Pattukottai Polytechnic Society that Municipality has come to the conclusion that 11 acres of land retained by the Municipality in addition to 6.56 acres of land and surrounding areas are not viable for establishing water scheme. They have shifted the scheme near Nasuvini river. In the said land, the Municipality has dumped garbage and constructed the Bus stand. These contentions of the learned counsel appearing for the Pattukottai Polytechnic Society are not disputed by the learned Advocate General appearing for the Municipality.

23. The learned Single Judge failed to consider that the Pattukottai Polytechnic Society has written number of letters expressing their readiness and willingness to pay Rs.1,01,70,058/- and the Municipality did not respond to any of the letters. From the counter affidavit filed by



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the Municipality in the writ appeals, it is seen that they have taken a stand that the Municipality refused to receive costs of Rs.1,01,70,058/- from the Pattukottai Polytechnic Society, when the Pattukottai Polytechnic Society offered to pay the said amount. According to the Municipality, they refused to receive the said amount from the Pattukottai Polytechnic Society as they are not accepting the cost so fixed by the Government and the land in question is required for developmental activities of the Municipality. In view of specific stand taken by the Municipality, it cannot be said that the Pattukottai Polytechnic Society was only writing letters offering to pay cost, but has not actually tendered the amounts.

24. Considering all the above materials on record in its entirety, we have no hesitation to hold that Municipal Council has passed Resolution No.465, dated 30.12.2013 with an ulterior motive to deprive the Pattukottai Polytechnic Society and take over the land handed over to it way back in the year 1983. Till 30.12.2013, the Municipality did not have any scheme for utilising 20 acres and 11 acres of land. Even after passing resolution, the Municipality did not form any scheme for utilisation of 20 and 11 acres of land. Only during hearing of the writ petitions, the



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Municipality has produced some materials to show that they have proposal to utilise the 20 acres of land. According to the Pattukottai Polytechnic Society, the Municipality has shifted the water scheme to Nasuvini river and the same was not denied by the Municipality.

25. For the above reasons, Resolution No.465, dated 30.12.2013 on the file of the Pattukottai Municipality is liable to be quashed and is hereby quashed.

26. The Society is running Polytechnic College in a rural area, which is aided by the Government of Tamil Nadu. 90% of the students are admitted as per the Government allotment. The Society has established Polytechnic College in a rural area for imparting technical education and students of that locality are being benefited from the year 1983 by establishment of said Polytechnic College. By establishing Polytechnic College, the Pattukottai Polytechnic Society is not only imparting technical education to the students, but also imparting social and sports activities for the welfare of the students in the rural area. For the said activities, the Society requires 20 acres of land and the Municipality without any concrete scheme to utilise the land is not



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entitled to reclaim the 20 acres of land.

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27. As far as costs of land is concerned, the District Revenue Officer fixed the value of the land at Rs.7,20,410/-. The Government has increased the same by 10% notional increase on the said amount from 1983 to 1993 and 12% notional increase on the said amount from 1993 to 2009 and fixed the value of the land at Rs.1,01,70,058/- by G.O.Ms.No.248, Municipal Administration and Water Supply Department, dated 17.12.2009. Even though the Pattukottai Polytechnic Society offered to pay the said amount, it was not paid by the Pattukottai Polytechnic Society as the Municipality refused to receive the same. It is to be taken into account that Pattukottai Polytechnic Society is in possession and utilising 20 acres of land from the year 1983. Therefore, the Pattukottai Polytechnic Society is liable to pay interest for the period from 2009 to till date. The Government calculated notional increase at 10% on Rs.7,20,410/- for the period from 1983 to 1993 and 12% notional increase on the said amount from 1993 to 2009 and fixed at Rs.1,01,70,058/-. Therefore, interest has to be added on Rs.1,01,70,058/- from 2009 onwards till 31.03.2013. The District Collector, Thanjavur, is directed to calculate amount payable by the Pattukottai Polytechnic Society at 9% per annum on Rs.1,01,70,058/- from 17.12.2009 to till date



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i.e., 31.01.2023 and add the same to Rs.1,01,70,058/- and communicate the same to the Society within eight weeks from the date of receipt of a copy of this order. On receipt of said communication, the Pattukottai Polytechnic Society is directed to pay the said sum to the Municipality within a period of eight weeks thereafter. The Municipality is directed to receive the said amount and execute the sale deed in favour of the Society.

28. With the above directions, both W.A.Nos.2245 and 2247 of 2018 are allowed setting aside the common order dated 03.10.2018 passed in W.P.Nos.13887 of 2014 & 31042 of 2013.

29. In the result, W.A.Nos.2245 to 2247 of 2018 filed by the Society are allowed. W.A.No.1235 of 2019 filed by Vasantha stands disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

(V.M.V., J) (R.H., J)
13.02.2023

Index : Yes/No
Internet : Yes/No



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Neutral Citation : Yes/No
Rgr/kj

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To

1.The Principal Secretary
Government of TamilNadu
Municipal Administration and Water
Supply Department
Fort St. George, Chennai-600 009.

2.The District Collector
Thanjavur.

3.The Commissioner
Pattukottai Municipality
Pattukottai – 614 601.

4.The Principal Secretary
Government of Tamil Nadu
Department of Higher Education
Fort St. George
Chennai-600 009.

5.The Principal Secretary
Government of Tamil Nadu
Department of Rural Development
and Panchayat Raj
Fort St. George
Chennai-600 009.

6.The Principal Secretary and
Commissioner of Land Administration
“Ezhilagam”, Chepauk
Chennai-600 005.



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W.A.Nos.2245 to 2247 of 2018 & 1235 of 2019

**V.M.VELUMANI,J.
and
R.HEMALATHA,J.**

Rgr/Kj

Pre-delivery judgment in
W.A.Nos.2245 to 2247 of 2018 & 1235 of 2019
and C.M.P.Nos.17893, 19139, 19145 of 2018
& 8508 of 2019

13.02.2023