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WP Nos.1760, 4410
6368 of 2017, 33708 of 2022
and 2371 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25-03-2024

CORAM

THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM

And

THE HONOURABLE MR. JUSTICE K.RAJASEKAR

**WP Nos.1760, 4410 and 6368 of 2017,
33708 of 2022 and 2371 of 2023**

And

**WMP Nos.4617, 6866, 6867 and 16194 of 2017, 3556, 4988 of 2020,
33197, 33198 of 2022 and 2453 of 2023**

- 1.S.Bharathanesan
- 2.S.Rajan Babu
- 3.P.Bharathadevi
- 4.R.Valarmathi
- 5.R.Malardevi
- 6.R.Jayamala
- 7.R.Premnath
- 8.R.Santhi
- 9.V.Vivekanandhan
- 10.V.Buddhan
- 11.V.Pari
- 12.N.Kasthuri
- 13.R.Vijayalaxmi
- 14.G.Jansi Rani
- 15.S.Meera (a) Pasundra Devi .. Petitioners in WP 1760/2017



WP Nos.1760, 4410
6368 of 2017, 33708 of 2022
and 2371 of 2023

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M/s.Amman Granites,
Represented by its Managing Partner,
M.Ramasamy, Son of Muthu Gounder,
M.G.Colony,
Harur Village-639 903,
Dharmapuri District. .. Petitioner in WPs 4410&6368/2017

1.P.Mani

2.P.Mohan .. Petitioners in WPs 33708/2022 and
2371/2023

-VS-

1.The District Collector,
Dharmapuri District,
Dharmapuri.

2.The Revenue Divisional Officer,
Harur,
Dharmapuri District.

3.The Tahsildar,
Harur Taluk,
Harur,
Dharmapuri District.

4.Thiru Ramasamy,
Managing Director,
Amman Granites,
Muthugounder Colony,
Harur.

[R-4 impleaded as per order of Court dated



WP Nos.1760, 4410
6368 of 2017, 33708 of 2022
and 2371 of 2023

04.04.2017 made in WMP No.3715 of 2017
in WP No.1760 of 2017] .. Respondents in WP 1760/2017

WEB COPY

1.State of Tamil Nadu,
Represented by its Principal Secretary,
Revenue Department,
Fort St. George,
Chennai-600 009.

2.The District Collector,
Dharmapuri District,
Dharmapuri.

3.The Tahsildar,
Harur Taluk,
Harur,
Dharmapuri District.

4.K.Vediyappan,
S/o.Kolandhai,
Door No.4/516, Murugan Koil Street,
Harur (Post and Taluk),
Dharmapuri (District)-636 903.

[R-4 impleaded vide order of Court dated 05.06.2017
made in WMP No.5296 of 2017 in WP No.4410
of 2017]

5.P.Mani,
Son of late Palanivel Gounder.

6.P.Mohan,
Son of late Palanivel Gounder.

[R-5 and R-6 impleaded vide order of Court
dated 25.03.2024 made in WMP No.16193 of 2017
in WP No.4410/2017] .. Respondents in WP 4410/2017



WP Nos.1760, 4410
6368 of 2017, 33708 of 2022
and 2371 of 2023

WEB COPY

1.State of Tamil Nadu,
Represented by its Principal Secretary,
Revenue Department,
Fort St. George,
Chennai-600 009.

2.The District Collector,
Dharmapuri District,
Dharmapuri.

3.The Revenue Divisional Officer,
Harur,
Dharmapuri District.

4.The Tahsildar,
Harur Taluk,
Harur,
Dharmapuri District.

.. Respondents in WP 6368/2017

1.State of Tamil Nadu,
Represented by its Secretary,
Revenue Department,
Fort St. George,
Chennai-600 009.

2.The District Collector,
O/o.The District Collector,
Dharmapuri District.

3.The Revenue Divisional Officer,
O/o.Revenue Divisional Officer,
Harur,
Dharmapuri District.



WP Nos.1760, 4410
6368 of 2017, 33708 of 2022
and 2371 of 2023

WEB COPY

4.The Tahsildar,

Harur Taluk,

Harur,

Dharmapuri District.

..

Respondents in WP 33708/2022

1.State of Tamil Nadu,

Represented by its Secretary,

Revenue Department,

Fort St. George,

Chennai-600 009.

2.The District Collector,

O/o.The District Collector,

Dharmapuri District.

3.The District Forest Officer,

Dharmapuri District,

Dharmapuri-636 701.

..

Respondents in WP 2371/2023

WP 1760 of 2017 is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents to implement the Government Order in G.O.Ms.No.971, Revenue Department, dated 27.06.1986 and to remove the encroachers and to handover the possession of the land in S.Nos.316/2A and 316/3A of Harur Village, Dharmapuri District to the extent of 2.13.0 and 0.49.0 Hectares to the legal heirs of the freedom fighter S.S.V.Govindasamy Chettiyar.



WP Nos.1760, 4410
6368 of 2017, 33708 of 2022
and 2371 of 2023

WEB COPY

WP No.4410 of 2017 is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the third respondent under notice dated 07.02.2017 issued to petitioner in respect of property comprised in Survey Nos.316/2A and 336/3A measuring an extent of 6.48 acres of land situated in Harur Village, Dharmapuri District and quash the same and direct the respondents to decide the bona fide owner of the land in the Survey No.316/2A,3A measuring 6.40 acres and to examine the petitioners exchange proposal by a letter dated 05.11.2013 for an exchange of petitioners patta land in Survey No.94/3, 94/4A1, 95/4A2, 93/1, 93/3A and 93/3B of H.Thottampatti Village, measuring 9.03 acres to that of Government Poramboke land in Survey No.316/2A,3A measuring 6.48 acres by exchange in accordance with 26-A of Board Standing Orders.

WP No.6368 of 2017 is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the third respondent passed in ROC No.4877/2012/A(2) dated 27.01.2017 on the file of the third respondent confirming the order of the fourth respondent dated 10.01.2017 issued to the petitioner in respect of property comprised in Survey Nos.316/2A and 336/3A measuring an extent of 6.48 acres of land situated in Harur Village, Dharmapuri District and quash the same and direct the respondents to decide the bona fide owner of the land in the Survey No.316/2A,3A measuring 6.40 acres and to examine the petitioners exchange proposal by a



WP Nos.1760, 4410
6368 of 2017, 33708 of 2022
and 2371 of 2023

letter dated 05.11.2013 for an exchange of petitioners patta land in Survey No.94/3, 94/4A1, 95/4A2, 93/1, 93/3A and 93/3B of H.Thottampatti Village, measuring 9.03 acres to that of Government Poramboke land in Survey No.316/2A,3A measuring 6.48 acres by exchange in accordance with 26-A of Board Standing Orders.

WP No.33708 of 2022 is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the impugned order passed by the first respondent in Letter (Ms) No.23680/LD3(2)/2018-2, dated 17.09.2022 and quash the same and consequently direct the 2 to 4 respondents to issue patta to the petitioners with respect of lands comprised in S.Nos.316/2A and 3A and grant reasonable time to the petitioners to vacate the Government Poramboke Land in S.No.328/1 and 328/2 of Harur Village.

WP No.2371 of 2023 is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the impugned order passed by the second respondent in Na.Ka.No.53500/2015/Tha2, dated 23.12.2022 and quash the same and consequently forbear the second and third respondents from interfering with the peaceful possession of the properties of the petitioners in S.No.316/2B, 316/3B, 333/1A, 333/1B and 333/1C measuring 3.40 acres in Harur Village of Dharmapuri District.



WP Nos.1760, 4410
6368 of 2017, 33708 of 2022
and 2371 of 2023

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For Petitioners in WP 1760/2017 : Mr.S.Doraisamy

For Petitioner in WPs 4410 and
6368/2017 : Mr.Arun Anbumani

For Petitioner in WPs 33708/2022
and 2371/2023 : Mr.C.Vigneswaran

For Respondent-1 to 3 in
WPs 1760,4410/2017 and
R-1 to R-4 in WPs 6368/2017
and 33708/2022, R-1 to R-3
in WP 2371/2023 : Mr.A.Selvendran,
Special Government Pleader.

For Respondent-4 in
WP 1760/2017 : Mr.Arun Anbumani

For Respondents-5 and 6 in
WP 4410/2017 : Mr.C.Vigneswaran

For Respondent-4 in
WP 4410/2017 : No Appearance

COMMON ORDER

[COMMON ORDER OF THE COURT WAS MADE

BY S.M.SUBRAMANIAM, J.]

The cases on hand are classic cases, where the Government
lands are appropriated by individuals for unjust and personal gains.



WP Nos.1760, 4410
6368 of 2017, 33708 of 2022
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2. Mr.S.Duraisamy, learned counsel appearing on behalf of the petitioners, would contend that his client's grandfather, namely, Govindasamy Chettiar, was a 'Freedom Fighter' and the Government allotted lands in his favour to lead his peaceful livelihood.

3. The Government Order in G.O.Ms.No.971, Revenue Department, dated 27.06.1985, was not implemented. Thus the learned counsel for the petitioner seeks implementation of the abovesaid Government Order.

4. Pertinently, no action was taken after issuance of the said Government Order on 27.06.1985. The writ petition itself was instituted after a lapse of more than three decades and therefore, we are not inclined to entertain any such claims made after a lapse of many years.

5. In respect of other writ petitioners, there are claims and counter-claims stating that the portion of the land are patta land remaining portion are Government lands. The Government accepted for exchange of



WEB COPY

WP Nos.1760, 4410
6368 of 2017, 33708 of 2022
and 2371 of 2023



lands and it was not implemented.

6. The Report of the Commissioner of Land Administration

would reveal the following points:-

“A. The Government land and the patta land surrendered by Thiru.Palanivel Gounder have been in the possession of the same family since the beginning. Specifically, the pattadar family holds 9.88 acres of Government land, while the surrendered patta land of 6.48 acres, which has been converted into Government land, is owned by M/s.Amman Granites, belonging to the family of Thiru.Muthu Gounder, brother of Thiru.Palanivel Gounder. The remaining 3.40 acres of land, which is yet to be surrendered, is still in the possession of the legal heir of Thiru.Palanivel Gounder.

B. The Government has not experienced any financial benefit from 1956 until the present time.

C. Neither the applicant for land exchange nor M/s.Amman Granites have made



WP Nos.1760, 4410
6368 of 2017, 33708 of 2022
and 2371 of 2023

any monetary contributions to the Government exchequer (excluding B memo charges) for the usage of Government lands.

D. Since 1985, no land assignments have been granted to the Freedom Fighter or their legal successors.

E. The Government has already rejected the plea put forth by Thiru P.Mani and P.Mohan to delcare the G.O.971 as null and void and the appeal made by M/s.Amman Granites to assign the encroached land in S.No.316/2A, 3A of Harur Village in exchange for their plea land in H.Thottampatty village.

Since the lands proposed for exchange are located in Harur Revenue village along the Harur-Sitheri State Highway, which is considered as a valuable land and also the Government Order has been already passed in this regard during the year 1985, considering the present status of the lands, necessary orders have to be obtained from the Revenue and Disaster Management Department of the Government. Hence, it is enlightened to put forth



WEB COPY



WP Nos.1760, 4410
6368 of 2017, 33708 of 2022
and 2371 of 2023

the following recommendations to Government:-

A. Following the issuance of G.O.971 by the Government, the authority to make decisions lies with the Government. Since the second part of the G.O., which involves assigning 3 acres of land, out of the 6.48 acres already surrendered, could not be executed, it is necessary to make slight modifications in para 3 of the said G.O. The District Collector may be instructed to identify alternative land for assignment to the legal heirs of the freedom fighter Thiru.Govindasamy Chettiar.

B. The Government has already denied the request made by Thiru P.Mani and P.Mohan to withdraw G.O.971. Consequently, the encroachment by M/s.Amman Granites must be removed and the 6.48 acres of land previously surrendered by Thiru Palanivel Gounder should be handed over to the Government after clearing the Granite debris and other structural encroachments within the time frame fixed by the Government.

C. Thiru Palanivel Gounder and his legal



WEB COPY

WP Nos.1760, 4410
6368 of 2017, 33708 of 2022
and 2371 of 2023



heirs have continuously been in possession of the Government land in S.No.328/1 and 328/2. Therefore, double the market value from the date of issue of G.O., until current date must be collected along with interest as stipulated in para 2 of the G.O.971.

D. M/s.Amman Granites have been in possession of the surrendered land in S.No.316/2A and 3A since 1984. Hence, they are liable to pay the damage fee along with penal interest."

7. In view of the above facts, as narrated in the Report of the Commissioner of Land Administration, we are not inclined to entertain the prayer to implement the Government Order passed in G.O.Ms.No.971, Revenue Department, dated 27.06.1985. Further, we are not inclined to entertain the claim of other writ petitioners that the proposal for exchange of lands with the Government are to be materialised.

8. It is the prerogative of the Government to take decision in this regard and the decision has already been taken on 17.09.2022 to resume



WP Nos.1760, 4410
6368 of 2017, 33708 of 2022
and 2371 of 2023

the Government lands for public purposes.

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9. Mr.A.Selvendran, learned Special Government Pleader, appearing on behalf of the official respondents in all the writ petitions, would submit that the decision of the Government at the higher level has already taken to utilise the Government property for public purposes and pertinently, the occupants have no right to claim Government property. Further, it is submitted that unauthorised occupants are enjoying Government properties several years, without paying any charges to Government. Thus the Government is empowered to recover the damages for the usage of Government lands unauthorisedly.

10. Proposals are submitted to recover the damages from unauthorised occupants. The proposal to that effect, is to be decided by the Government.

11. At the outset, we are not inclined to consider the relief, as such, sought for in all these writ petitions. The official respondents are



WP Nos.1760, 4410
6368 of 2017, 33708 of 2022
and 2371 of 2023

directed to initiate all appropriate actions to resume Government lands and utilise the same for public purposes. Regarding the recovery of damages for unauthorised use and occupation of Government lands, the Competent Authorities are directed to assess the damages and recover the same by following the procedures as contemplated.

12. With the above directions, all the writ petitions stand dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petitions are also dismissed.

(S.M.SUBRAMANIAM,J.)

(K.RAJASEKAR,J.)

25-03-2024

Index : Yes/No

Internet: Yes/No

Speaking order/Non-Speaking order

Neutral Citation : Yes/No

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WEB COPY



WP Nos.1760, 4410
6368 of 2017, 33708 of 2022
and 2371 of 2023

To

- 1.The District Collector,
Dharmapuri District,
Dharmapuri.
- 2.The Revenue Divisional Officer,
Harur,
Dharmapuri District.
- 3.The Tahsildar,
Harur Taluk,
Harur,
Dharmapuri District.
- 4.The Principal Secretary,
State of Tamil Nadu,
Revenue Department,
Fort St. George,
Chennai-600 009.
- 5.The Secretary,
State of Tamil Nadu,
Revenue Department,
Fort St. George,
Chennai-600 009.
- 6.The District Forest Officer,
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Dharmapuri-636 701.



WEB COPY



WP Nos.1760, 4410
6368 of 2017, 33708 of 2022
and 2371 of 2023

S.M.SUBRAMANIAM, J.
AND
K.RAJASEKAR, J.

Svn

WPs 1760, 4410 and 6368 of 2017,
33708 of 2022 and 2371 of 2023



WEB COPY



WP Nos.1760, 4410
6368 of 2017, 33708 of 2022
and 2371 of 2023

25-03-2024