



CrI.O.P.(MD).No.12953 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved On	:	29.02.2024
Pronounced On	:	15.07.2024

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

CrI.O.P(MD).No.12953 of 2020

and

CrI.M.P(MD). No.5907 of 2020

1. M.P.Udayakumar,

2. C.Pragalathan

... Petitioners/Accused No.1 and 2

Vs.

1. The Inspector of Police,
K.K.Nagar Police Station,
K.K.Nagar,
Tiruchirappalli-620 021

... 1st Respondent/Complainant

2. S.A.Xavier

... 2nd Respondent/Defacto Complainant

3. The District Revenue Officer,
Tiruchirappalli.

(R3 is suo motu impleaded as per Order of the Court dated 23.11.2023
in CrI.O.P(MD).No.12953 of 2020 by K.K.R.K.,J.)

PRAYER: Criminal Original Petition has been filed under Section 482 of Cr.P.C., to call for the records pertaining to the FIR in Crime No.833 of 2020 on the file of the 1st respondent police dated 26.09.2020 and quash the same as illegal.



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For Petitioners : Mr.B.Jameel Arasu

For Respondents : Mr.J.Ravindran,
Additional Advocate General,
assist by Mr.M.Muthumanickam
Government Advocate(Crl.Side)
for R1 & R3

: Mr.K.R.Laxman for R2

ORDER

The Petitioners are accused Nos.1 and 2 in Crime No.833 of 2020 on the file of the first respondent police. They filed this petition to quash the FIR in Crime No.833 of 2020 registered against them.

2.The petitioners claimed their ownership through the civil degree obtained by them in O.S.No.683 of 2010. According to the petitioners, the property belonged to one Arumugam Ambalakarar. He sold the same to the petitioners' grandfather namely, Munusamy Naidu in the year 1917. Thereafter, their families were enjoying the property. That being the situation, they came to know that the Government of Tamil Nadu acquired the said land in the year 1965. As per the Land Acquisition Act 1894, the land was acquired for the construction of Periyar E.V.R. Government College. During the course of the



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said acquisition proceedings, notice has not been served and hence, they filed a suit in O.S.No.683 of 2010 seeking declaration and injunction. The said suit was entertained by the II Additional District Munsif Court, Trichy, and ex-parte degree was granted. In the ex-parte degree, declaration of the title and injunction restraining the Government to interfere in the suit scheduled property was granted. On the basis of that, they filed a writ petition before this Court for grant of mutation in the revenue records. In the said proceedings, the writ Court also allowed the said writ petition issuing a direction to consider granting of patta on the basis of the Civil Court degree. That being the situation, the de-facto complainant, who is the owner of the adjacent land obstructed the pathway meant for the said petitioners' land in S.Nos.115/2 and 115/3 and T.S.No.2/1 and 2/2. Hence, there was an allegation against the petitioners that they criminally trespassed into the land of the de-facto complainant and damaged the gate in the pathway put up by the second respondent. Hence, he made a complaint before the first respondent Police and the first respondent Police registered a case in Crime No.833 of 2020 for the offence under Sections 447, 294(b), 427 and 506(i) of IPC. To quash the same, the petitioners filed the present petition.



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3.The learned counsel appearing for the petitioners made the following submissions:-

3.1.According to the petitioners, they got the civil degree and they are entitled to possession of the property and the pathway meant for the 20 feet in T.S.No.6. The said pathway is a common pathway and the defacto complainant has no *locus standi* and the petitioner has not committed any offences as alleged by the prosecution and hence, he seeks for the quashment of proceedings in Crime No.833 of 2020.

4.The learned counsel appearing for the second respondent/defacto complainant submitted that the petitioners claimed the title over the acquired property for the construction of the Periyar E.V.R. Government College, Trichy. In the said circumstances, he claimed the title over the Government acquired property and to substantiate the same, he produced the Government Order in G.O.(NS) No.1330, Education and Public Health Department, dated 17.07.1965 relating to the land acquisition. This Court, on perusal of the said order, *suo moto* impleaded the District Revenue Officer, Tiruchirappalli, as the third respondent to verify the same and submit the report. The District Revenue



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Officer, Tiruchirappalli, verified the same and submitted detailed report through the learned Additional Advocate General that the property in S.No.115/2, 115/3 and 116/2 at Kottappattu Village, Tiruchirappalli Taluk, the ownership of which was claimed by the petitioners was acquired and the compensation amount, due to the dispute between the landowners, was deposited in the competent Court and the ex-parte decree, obtained is not at all legally maintainable before the trial court and in all the revenue records, it is noted as “acquired property” and the original owner is not the owner of the properties. The property is the Government-Inam land and no person is entitled to execute any title deed to anybody and with the active collusion with some of the officials, the corresponding survey number in the town survey number has been manipulated and forged and claimed the title over the properties. After the inquiry, the person, who is involved in the said manipulation of the town survey numbers has been suspended. The wrong entry, false entry and forged entry made in the town survey number also was deleted. He also has taken steps to take action against the persons responsible for leaving the case ex-parte including the Government Advocate representing the State. The learned counsel thereafter, submitted that the enquiry about the acquiring of the land is not necessary to decide in this quash petition. This court has no jurisdiction to widen the scope of the case.



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5.At this stage, the learned Additional Public Prosecutor on instructions, submitted that the case was closed. In the closure report, it is stated that the case was closed as “Mistake of Fact”. In the said circumstances, on the basis of this report, the learned counsel appearing for the petitioners submitted that no further adjudication is necessary in this case.

6.On the other hand, the learned counsel appearing for the defacto complainant submitted that the closure report was filed with an intention to allow the petitioners to escape from all the above illegality committed by them in grabbing the Government acquired land and hence, this Court is entitled to exercise the power under 482 of Cr.P.C., to meet the ends of justice to set aside the said report and also find out, who are all the persons involved in the illegal occupation of the Government land and the manipulation of the forged records in the Town survey records.

7.The learned Additional Advocate General assisted by the learned Government Advocate (CrI. Side) also stated that the State Government has also taken steps to safeguard the Government acquired land.



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8.The learned Government Advocate (Crl. Side) reiterated the submission of the learned Additional Advocate General.

9.This Court considered the rival submission made on either side and perused the records and also the impugned FIR and the written statement filed by the third respondent/District Revenue Officer, Tiruchirappalli.

10.Even though the petitioners have filed this quash petition claiming right over the property in S.No.115/2, 115/3 and 116/2 at Kottappattu Village, Tiruchirappalli Taluk, they have not disclosed the source of title. Subsequent to the submission of the defacto complainant that the above survey numbers are Government land, they have filed documents and the decree in O.S.No.683 of 2010.

11.The above said survey lands are acquired for the construction of the Thanthai Periyar Womens College, Trichy, Thanthai Periyar, the president of the Dravidar Kalagam had deposited Rs.50,000/- to acquire the government land for the upliftment of women. Therefore, the Government acquired the land and compensation also was deposited. The said procedure took place as early as in



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the year 1970. Thereafter, the land was entrusted to the Dravidar Kalagam. After the completion of the land acquisition proceedings, a well planned conspiracy was hatched and executed to grab the said valuable land by filing the suit in O.S.No.683 of 2010 with prayer to declare the acquisition proceeding null and void and consequential injunction. The suit itself is not maintainable. Any suit for declaration of the land acquisition proceedings is not only barred under the land acquisition Act and also against the law laid down by the Hon'ble Supreme Court reported in ***1995 4 SCC 229, 1997 11 SCC 250***.

12.From the above law laid down by the Hon'ble Supreme Court, the civil Court has no jurisdiction to entertain the validity of the notification. There is total bar under Section 9 of C.P.C. Once land acquisition proceedings were initiated and possession was taken and the same was utilized, the property becomes Government property. It is relevant to extract the following materials documents of the land acquisition proceeding to show legal compliance of the procedure:



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V RAMASAMI
OF NAGAR KAZHAGAM

Camp Tiruchirappalli, 111,

Date 17th. April, 1965.

To
The Pashildar,
Tiruchirappalli.

Sir,

With reference to our personal conversation to-day - am to say that I am willing to register a gift deed in favour of the Government in respect of S.No.36/2 of Kottappattu village.

As regards the cost of acquisition in respect of S.No.36/1, 115/1 to 115/3, I am willing to contribute a sum of Rs.50000/- (Rupees Fifty thousandse only)

Yours faithfully,

[Signature]
(L.V.RAMASAMI.)



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Notification under Section 4 (1) of the Land Acquisition Act I of 1894.
(Under Urgency provision of the Land Acquisition Act.)

Whereas it appears to the Government of Madras that the lands specified below are needed for a public purpose, to wit, for the construction of a Government Arts College for men at Tiruchirappalli in accordance with the provisions of sub-section (1) of Section 4 of the L.A. Act I of 1894 (Central Act I of 1894) and the Governor of Madras hereby authorises the Revenue Divisional officer, Tiruchirappalli, his staff and workmen to exercise the powers conferred by sub-section (2) of Section 4 of the said Act. Under Section (1) of Section 17 of the said Act, the Governor of Madras hereby directs that in view of the urgency of the case, the provisions of section 5A of the said Act, shall not apply to this case.

SECRET UWL R.

Name of the District: Tiruchirappalli.
Name of the Taluk: Tiruchirappalli.
Name of the village: 42, Kottapattu.

Govt. or Inam or wet or Dry.	Survey no. or palmash No.	Name of the present enjoyers and interested persons.	Extent under acqn. (approximate). A..C.	Whether waste.
Karnam service Inam Dry.	115/2.	Registered holder. Sri V. S. P. L. P. Chidambaram chettiar residing at Maneranji-tham street, Devakottai.	2..69.	waste.
"	115/3	Owners name same as S.No.115/2.	1..61	-do-
Kaval Uzhayan Inam Dry.	116/2.	1. Sri K. P. Kunnichettiar. 2. Sri K. P. Natarajan. 3. Sri K. P. Govindarajan. 4. Sri K. P. Gopalann. 5. Minor Sri K. P. Dharmalingam. 6. " Sri K. P. Sundarann. Minors 5 & 6 represented by guardian K. P. Palanisamy chettiar. 7. Sri S. S. Nengannay chettiar. 8. Sri S. S. Kasthuri chettiar. 9. Sri S. S. Palanisamy chettiar. 10. Sri S. S. Shanmugham. 11. Minor Sadasivam represented by guardian Srirangam chettiar.	2..09	Waste
Interested person:				
12. Sri Nachimuthu gounder (lessor).				
Total.			6..59	

sd/

/ by order/

Sd/-J. Chelliah,
Revenue Divl. officer.



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graft Declaration under Section 6 of the Land Acquisition Act.
(Under urgency provisions of the Land Acquisition Act).

The Government of Madras having been satisfied that the lands specified in the schedule below have to be acquired for a public purpose and it having already been decided that the entire amount of compensation to be awarded for the lands is to be paid out of public revenues, the following declaration is issued U/s.6 of the L.A. Act 1954 (Central Act I of 1954).

DECLARATION.

Under Section 6 of the L.A. Act 1954 (Central Act I of 1954) the Government of Madras hereby declares that the lands specified in the schedule below and comprising 6 acres 58 cents be the same a little more or less, are needed for a public purpose, to wit, for the construction of a Government Arts College for Men at Tiruchirappalli, and under section 3 and 7 of the said Act, the Revenue Divisional Officer, Tiruchirappalli, is appointed to perform the functions of a Collector under the said Act and directed to take order for the acquisition of the said lands. Under sub section (1) of section 17 of the said Act, the Governor of Madras further directs that the possession of the said lands may be taken on the expiry of fifteen days from the date of publication of the notification in section 9(1) and (10) of the said Act, a plan of the lands is kept in the office of the Revenue Divisional Officer, Tiruchirappalli and may be inspected at any time during office hours.

SCHEDULE.

Name of the District: Tiruchirappalli.
Name of the Taluk: Tiruchirappalli.
Name of the Village: 18, Kattipatti.

Description of the land, sit or dry, in an or perambled with survey or village No.	Name of owner or occupier.	Boundaries of the land required to be taken up.				Extent to be taken up. A..t.
		North.	East	South	West	
Garnan, service land try. S. No. 115/2.	Sri T. S. P. L. P. Chidambaram chettiar.	36 & 37	115/3	115	115/1	2..31
-du-115/3.	Owners name same as S. No. 115/2.	115/2 and 37	114	115	115/2	1..9
avel uchiyann land try. S. No. 116/2.	1. Sri K. P. Sundar chettiar. 2. Sri K. P. Natarajan. 3. Sri K. P. Govindarajan 4. Sri K. P. Gopalani. 5. Minor K. P. Changanalingam 6. .. K. P. Sundaram. 7. Sri S. S. Ranganathan chettiar. 8. Sri S. S. Ranganathan chettiar. 9. Sri S. S. Ranganathan chettiar. 10. Sri S. S. Ranganathan. 11. Minor Ranganathan represented by guardian Ranganathan chettiar. Interested Person. 12. Sri Ranganathan Ranganathan (Lawsan).	115	114	115+	115/1	2..0
Total.						3..5

/by order/

Sd/-J. Chelliah,
Revenue Divl. Officer.



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Office Note

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Sub:Land Acquisition-Tiruchy Taluk=Kottapattu village. Acquisition for the construction of Women's arts and science college at Tiruchirappalli- regarding

Submitted:

Sri.E.V.Ramasamy, President of the College Committee, Periyar Mension Puthur, Trichy applied for the requisition of the following lands in Tirichy Taluk “for establishing a women's Arts and science College at Trichy”.

Name of Village: Kottapattu			
S.F.No.	Classification	Regd. Extent.	Extent proposed for acquisition
36/1	Govt. dry	8.97	8.97
115/1	Karnam Service Inam Drv.	15.10	15.10
115/2	-do-	2.69	2.69
115/3	-do-	1.81	1.81
Total			28.57

A topo sketch showing the lands applied for by the President is available at page 139 of Tiruchy R.D.O's office D.Dis.36439/63 d 28.07.64 (put up).

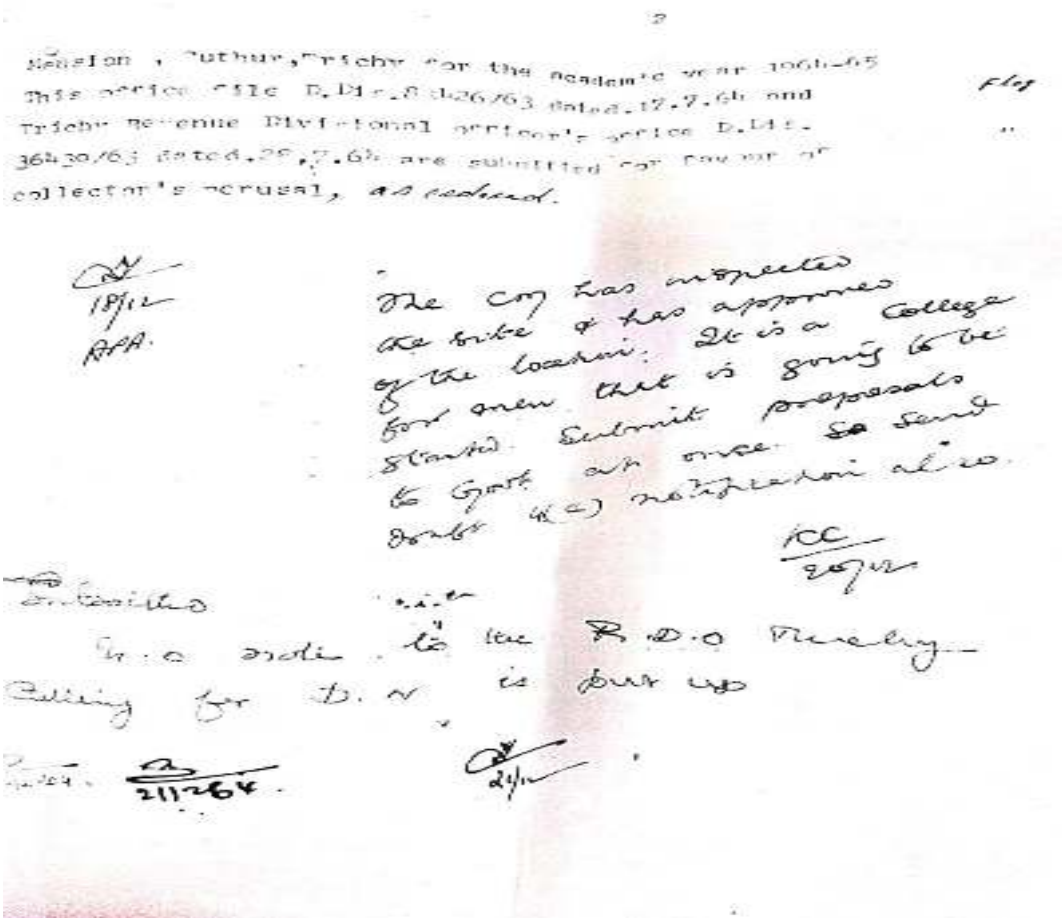
Draft notification under Section 4 (2) of the L.A., Act under ordinary provision was submitted to Government in respect of S.F.36/1 and 115/1 as there are structures on them. In respect of S.F.No.115/2 and 115/3 Draft notification and Draft Declaration were submitted to Government invoking urgency



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provisions of the L.A., Act in this office ROC.4.83426/63 dated 04.06.64. the Government in their memo No.65045/E..04.64=2 education dated 14.07.64 have informed that no action has been taken on the L.A., proposals of Madras has not granted affiliation for the opening of the Arts and science College for women at Trichy by the College Committee, Peiryar mansion, Puthur, Trichy for the academic year 1964/65. this office file D.Dis.83426/63 dated 17.07.64 and Trichy Revenue Divisional Officer's office D.Dis.36439/63 dated 28.07.64 are submitted for favour of collector's perusal, as ordered.





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52. 6/56

Sworn by Sri J. S. Chelliah, B.A., Revenue Divisional Officer and Land
Accountant Officer, Tirunelveli.
(Under Section 11 of the)

United States of America

(Under Section 11 of the Land Acquisition Act I of 1924.)

Shorena an extent of Jams measuring more or less 8 and 97 etc. in 1 Aa. 31 etc. in S.No. 115/1, 12 Aa. 115/1, 2 Aa. 03 etc. in S.No. 115/2, 9 etc. in S.No. 115/2 (Total 42 Aares and 97 etc.), and situated in the village of Kottayam in the Taluk of Thuvanchirappalli in the District of Thuvanchirappalli, in the District of Thuvanchirappalli and registered in the name of, or assigned by, the persons specified below, has been declared by Government at page 533 of the Fort St. George Gazette, Part II Section 3 dated 4-8-65 in respect of S.No. 115/2 (2 Aa. 55 etc., 115/3 (1 Aa. 51 etc.), 115/2 (2 Aa. 9 etc.) Total 6 Aa. 59 etc.) and at page 403 of the Fort St. George Gazette, Part II Section 3 dated 4-5-66 in respect of S.No. 36/1 (8 Aa. 37 etc.), 115/1 (15 Aa. 10 etc.), and 115/1 (12 Aa. 37 etc.) (Total 26 Aa. 38 etc.) to be needed for the purpose of construction of a Government Arts College for Men, the undersigned, after full enquiry into the case and on the consideration of the various circumstances connected with the requisition as heretofore set forth, makes the following award under his hand:-

- (1) The True Area of the land is acres 42 and 37 cents.
- (11) The compensation allowed for the land is Rs. 2,77,445-50 as shown below:-

- (A) (1) The market value of the land subject to full assessment, pashkash or ground-rent in the case may be and in the case of house-sito held free its market value on such exclusive in all cases of towns, buildings and standing crops at Rs. Vide B.S.O.No.90, paragraph 4(1) (1) 1,57,545-00
- (2) In the case of inns other than those mentioned in paragraph 14 (ii) of B.S.O. No.90, compensation for loss of privilege calculated at 20 % of the assignment of Government Revenue to which the XXXXXX innholder is entitled - vide B.S.O.No.90, paragraph 14(1) (2). 7-=-
- (3) In the case of inns coming under paragraph 14 (ii) of B.S.O.No.90, the amount of net assessment guaranteed to the innholder at the time of the Inn Settlement on the extent acquired, which represents the minimum interest in Rupees 7-=-

Note: The value of the compensation for the Kudivaram interest is to be entered against item (ii) of (i) above.

Trees 5,5034



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(ii) (b) valuation on a number of buildings, wells, tanks, etc. (Srinivasan Wells etc.)

(a) 15 per cent on item (1) and (2) and (b)

(A) Interest at 4% per annum from 31-8-65 to 30-6-66 in respect of S.No. 115/2, 115/3 and 116/2.

(a) Crop compensation.

Rs. 76,757-00

35,971-75

662-35

1,000-00

Total

2,77,446-50

(Two lakhs, seventy seven thousand and four hundred and forty six and fifty paise only).

S.No.	Extent. Ac. ct.	Name of registered holder or occupier	Boundaries of the land			
			North (a) S.No	East (b) S.No.	South (c) S.No	West (d) S.No
36/1	8-37	Sri S.Lutchmiah Chetty S/o Soora Subbiah Chetty 2B, Nagappa Iyer Street, Triplicane, Madras-5.	30	36/2	115	Z.A.S. shim- pura village
115/1	15-10	Same as S.No. 36/1	36	115/2	116	-do-
117/2	2-69	1. Smt. Sivakami Achi, W/o T.S. PL.P. Chidambaram Chettiar, Manoranjitham Street, Devakkottai 2. Sri PL.CT.M. Palaniappa Chettiar, Proprietor, C.T. Transports, Marakkal. 3. Sri PL.CT.SP. Subramanian Chettiar, S/o T.S. PL.P. Chidambaram Chettiar, Manoranjitham Street, Devakkottai. 4. Sri C.T. Santlinathan Chettiar S/o T.S. PL.P. Chidambaram Chettiar, 4/9 Birds Road, Contonment, Tiruchappalli-1. 5. Smt. Meenakshi Achi W/o Karuppan chettiar, Muthu K.R. Street. Devakkottai.	36 and 37	115/3	116	115/1



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		4(a) (b) (c) (d)			
1-5/0	contd.	6. Smt. Neelam Rani W/o V. R. N. Nandakumar, Sundaram Chettiar, 30th Street, Kallur, Dindigul.			
1-115/3	1-81	7. Smt. Valliammal Rani W/o Lakshmanan Chettiar, Kandam Road, Dindigul, Dindigul.			
1-115/3	1-81	Same as D.No. 115/2	115/2, 37 and 114	114	116 115/2
1-115/3	12-31	1. Sri K.P. Sundaram Chettiar, 115 S/o Sri K. Palanisamy Chettiar, Cloth Merchant Tiruchi Road, Coimbatore, Salem-6.			
		2. S. J. S. Satharajan S/o Sri K. Palanisamy Chettiar, Cloth Merchant, Kallur, Dindigul, H/o Vijayapuri, Vijayanagar Post, Broder Taluk, Coimbatore District.			
		3. Sri K.P. Sundaram Chettiar, S/o Sri K. Palanisamy Chettiar, Cloth Merchant, Kallur, Dindigul, H/o Vijayapuri, Vijayanagar (P.O.) Broder Taluk, Coimbatore District.			
		4. Sri K.P. Sundaram S/o Sri K. Palanisamy Chettiar, Cloth Merchant, Tiruchi Road, Coimbatore, Salem-6.			
		5. Sri K.P. Sundaram Chettiar, S/o Sri K. Palanisamy Chettiar, Cloth Merchant, Tiruchi Road, Coimbatore, Salem-6.			
		6. Sri K.P. Sundaram S/o Sri K. Palanisamy Chettiar, Cloth Merchant, Kallur, Dindigul, H/o Vijayapuri, Vijayanagar Post, Broder Taluk, Coimbatore District.			
		(Nos. 5 and 6 minors - guardian represented by Sri K. Palanisamy Chettiar.)			

by guardian



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7. Sri S.S. Ranganathan Chettiar,
S/o Sri Rangan Chettiar,
Kallanpudur, 11/5 Vijayapuri,
Vijayanagara Post,
Erode Taluk.
8. Sri S.J. Kasturi Chettiar,
S/o Sri Rangan Chettiar,
Cloth Merchant,
Kumaran Road, Tirup, ur (P.O.),
Coimbatore District.
9. Sri S.R. Sathyanarayana Chettiar,
S/o Sri Rangan Chettiar,
Cloth Merchant,
Kallanpudur, 11/5 Vijayapuri,
Vijayanagara Post,
Erode Taluk.
10. Sri S.S. Shanmugham
S/o Sri Rangan Chettiar,
Cloth Merchant,
Kumaran Road,
Tirup, ur Post,
Coimbatore District.
11. Sri S.S. Sadasivan,
S/o Sri Rangan Chettiar,
Cloth Merchant, Kumaran Road,
Tirup, ur Post, Coimbatore Dist.
- Lessee:
12. Sri Nandimuthu Counder
S/o Marappa Counder,
Tiruchi-1.
- 115 114 118 115/
- Same as No. 116/1

(iii) The person or persons to whom the recommendation is given
Serial No. Name

1. Sri S. Latchaiah Chetty S/o Soora Subbiah Chetty, 1, 87, 117, 118, 119
28, Nagappa Fyer Street, Triplicane, Madras-5.
(owner of S.No. 36/1 and 115/1)

2. Smt. Sivabai Achie/o T.S. PL.P. Chidambaram Chettiar, 13, 718-75
Manoppalpet Street, Devakkottai



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Sl.No.	Name	No.
1.	Sri P.L.C.T.P. Palaniappa Chettiar, Printer, C.T. Thiruparvathi, Mannakkal	147
2.	Sri P.L.C.T.S.P. Subramanian Chettiar, S/o Sri T.S.P.L.P. Chidambaram Chettiar, Manoranjitham Street, Devakottai.	11
3.	Sri G.T. Senthilnathan Chettiar, S/o Sri T.S.P.L.P. Chidambaram Chettiar, 4/9, Birds Road, Montenment, Tiruchi-1.	
4.	Smt. Meenakshi Achi, W/o Karuppan Chettiar, K.R. Street, Devakottai.	
5.	Smt. Umayal Achi, W/o V.R.M. Meenakshi Sundaram Chettiar, South Sivan Koil Street, Devakottai.	
6.	Smt. Valiammai Achi, W/o Lakshmanan Chettiar, Karudha Urani Street, Devakottai.	
(Sl.Nos.2 to 6) The exact of extent owed by each is not known. Thus there is difficulty in the apportionment of Compensation. The entire amount of compensation will be deposited in Civil Court U/s 31/2 of the Land Acquisition Act in respect of S.No. 115/2 and 115/3)		
<u>S.No.116/1:</u>		
7.	Sri K.P.Kunni Chettiar, S/o Sri K.Palanisamy Chettiar, Cloth Merchant, Tiruchi Road, Guhai, Salem-6.	68,7/6-9Q
8.	Sri K.P.Natarajan S/o Sri K.Palanisamy Chettiar, Cloth Merchant, Kabinapudur, H/o Vijayapuri, Vijayanangalam Post, Erode Taluk.	
9.	Sri K.P.Govindasamy Chettiar, S/o Sri K.Palanisamy Chettiar, Cloth Merchant, Kabinapudur, H/o Vijayapuri, Vijayanangalam Post, Erode Taluk.	
10.	Sri K.P.Gopalan S/o Sri K.Palanisamy Chettiar, Cloth Merchant, Tiruchi Road, Guhai, Salem-6.	
* It will be paid to Sri K.P.Natarajan S/o K.Palanisamy Chettiar and (2) Sri S.S.Rengasamy S/o Sri Natarajan Chettiar, Cloth Merchant, residing at Kabinapudur H/o Vijayapuri, Vijayanangalam Post, Erode Taluk. as they are the general power agent for their Borthors.		



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3. Sri K. S. Dhanalingam
S/o Sri K. Palanisamy Chettiar,
Cloth Merchant,
Tiruchi Road, SMT Quail,
Salem -6.

4. Sri S. V. Sankaran S/o Sri K. Palanisamy
Chettiar, Cloth Merchant,
Kadlagapur, H/o Vijayapuri,
Vijayamangalam Post, Erode Taluk.
(Nos. 33 and 14 minors - represented by
Guardian Sri K. Palanisamy Chettiar.)

5. Sri S. S. Ranganay Chettiar,
S/o Srinangan Chettiar,
Kadlagapur, H/o Vijayapuri,
Vijayamangalam Post, Erode Taluk.

6. Sri S. S. Kutturi Chettiar,
S/o Srinangan Chettiar,
Cloth Merchant, Kuzman Road,
Tiruppur (P.O.), Coimbatore Dist.

7. Sri S. S. Palanisamy Chettiar, S/o Srinangan Chettiar,
Cloth Merchant, Kadlagapur, H/o Vijayapuri,
Vijayamangalam Post, Erode Taluk.

8. Sri S. S. Shanmugham, S/o Srinangan Chettiar,
Cloth Merchant, Kuzman Road, Tiruppur Post.

9. Sri S. S. Sadasivan, S/o Srinangan Chettiar, Cloth
Merchant, Kuzman Road, Tiruppur Post.

Lessee:
20. Sri Nachimuthu Gounder, S/o Marappa Gounder,
Tiruchi-1.

S.No. 116/2:
Serial Nos. 9 to 19 noted against S.No. 116/1

1,000.00
9,877.55

Grand Total 9,77,445.50

Amount Two lakhs seventy seven thousand four hundred and forty
six and paise fifty only.

The undersigned certified that :-
(a) Notices have been promulgated or served in accordance with
section 9 of the Land Acquisition Act and that evidence of such
promulgation or service forms part of the record.
(b) There is before him a plotted plan of the land or lands to
be acquired.

[Signature]
Land Acquisition Officer and
Revenue Divisional Officer, Tiru



115/2. Palm myra above 15' bearing 1
 non bearing - 1
 116/3 No trees
 116/2. Palm myra non bearing above 15' 22
 bearing 15
 below 15' 14
 Kauri 1 1/2' Gravel 1
 Kauri 1 1/2' " 1
 Vela 1 1/2' " 1
 " 1 1/2' " 1
 " 1 1/2' " 1



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In the said circumstances, filing of suit and obtaining a decree of declaration of title clearly proved that there is a well planned and well executed conspiracy to grab the Government land.

13.All the above facts are known to the investigating agency. In spite of that, the investigating officer closed the case as mistake of fact. When serious allegation about the fraudulent transaction over the Government valuable lands through the report of the high level revenue officials namely, DRO, has been made, this Court is not satisfied with the closure report filed by the investigating officer which creates suspicion in the mind of this Court. Apart from that, there is allegation against the defacto complainant also that he falsely claimed title over the Government pathway showing the difference of measurement in the schedule of properties in their sale deed. The same was also not investigated by the investigating officer. The above act shows callous attitude of investigating officer to file final report before the Court during the pendency of the leaving of the case and it further shows bias on the part of the investigating officer. Therefore, considering the extraordinary circumstances, in the interest of justice, more particularly, that the land was acquired for the upliftment of women welfare through Dravidar Kalagam, founded by the well known Social Leader, Thanthai



Periyar, this Court exercises its inherent power to order further investigation by a senior level officer, which is fortified by the judgment of the Hon'ble Supreme Court reported in **2021 11 SCC 804** and **2013 5 SCC 762**.

Where the investigation ex facie is unfair, tainted, mala fide and smacks of foul play, the courts would set aside such an investigation and direct fresh or de novo investigation and, if necessary, even by another independent investigating agency. As already noticed, this is a power of wide plenitude and, therefore, has to be exercised sparingly. The principle of the rarest of rare cases would squarely apply to such cases. Unless the unfairness of the investigation is such that it pricks the judicial conscience of the court, the court should be reluctant to interfere in such matters to the extent of quashing an investigation and directing a “fresh investigation”.

The superior courts are even vested with the power of transferring investigation from one agency to another, provided the ends of justice so demand such action. Of course, it is also a settled principle that this power has to be exercised by the superior courts very sparingly and with great circumspection.

44. We have deliberated at some length on the issue that the powers of the High Court under Section 482 of the Code do not control or limit, directly or



impliedly, the width of the power of the Magistrate under Section 228 of the Code. Wherever a charge-sheet has been submitted to the court, even this Court ordinarily would not reopen the investigation, especially by entrusting the same to a specialised agency. It can safely be stated and concluded that in an appropriate case, when the Court feels that the investigation by the police authorities is not in the proper direction and that in order to do complete justice and where the facts of the case demand, it is always open to the Court to hand over the investigation to a specialised agency.

10. The police has the primary duty to investigate on receiving report of the commission of a cognizable offence. This is a statutory duty under the Code of Criminal Procedure, 1973 apart from being a constitutional obligation to ensure that peace is maintained in the society and the rule of law is upheld and applied. To say that further investigation was not possible as the informant had not supplied adequate materials to investigate, to our mind, is a preposterous statement, coming from the police.

Once the conscience of the court is satisfied, from the materials on record, that the police has not investigated properly or apparently is remiss in the investigation, the court has a bounden constitutional



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obligation to ensure that the investigation is conducted in accordance with law. If the court gives any directions for that purpose within the contours of the law, it cannot amount to interference with investigation. A fair investigation is, but a necessary concomitant of Articles 14 and 21 of the Constitution of India and this Court has the bounden obligation to ensure adherence by the police.

In the rare and compelling circumstances referred to above, the superior courts may monitor an investigation to ensure that the investigating agency conducts the investigation in a free, fair and time-bound manner without any external interference.”

14. Apart from that, the conduct of the investigating officer has to be enquired into. The Hon'ble Supreme Court has reiterated such action to be taken against the investigating officer, who has conducted defective investigation. Therefore, this Court directs the Commissioner of Police, Tiruchirappalli, to issue summons to the investigating officer and enquire about the closure report filed without conducting proper investigation on the fraudulent transfer of the Government valuable lands as revealed from the report of the DRO, as per the law laid down by the Hon'ble Supreme Court in the following cases:



**23.1. State of Gujarat v. Kishanbhai, (2014) 5
SCC 108:**

“23..... Each erring officer must suffer the consequences of his lapse, by appropriate departmental action, whenever called for. Taking into consideration the seriousness of the matter, the official concerned may be withdrawn from investigative responsibilities, permanently or temporarily, depending purely on his culpability. We also feel compelled to require the adoption of some indispensable measures, which may reduce the malady suffered by parties on both sides of criminal litigation. Accordingly, we direct the Home Department of every State Government to formulate a procedure for taking action against all erring investigating/prosecuting officials/officers. All such erring officials/officers identified, as responsible for failure of a prosecution case, on account of sheer negligence or because of culpable lapses, must suffer departmental action. The above mechanism formulated would infuse seriousness in the performance of investigating and prosecuting duties, and would ensure that investigation and prosecution are purposeful and decisive. The instant direction shall also be given effect to within 6 months.

24.A copy of the instant judgment shall be transmitted by the Registry of this Court, to the Home



Secretaries of all State Governments and Union Territories, within one week. All the Home Secretaries concerned, shall ensure compliance with the directions recorded above. The records of consideration, in compliance with the above direction, shall be maintained.”

23.2. In *Bharati Tamang v. Union of India*, (2013) 15 SCC 578:

“When deficiency in investigation or prosecution is visible or can be perceived by lifting the veil that hereby tried to hide the realities, the Court should deal with the same with the iron hand appropriately within the framework of law.”

(3) *Dayal Singh v. State of Uttaranchal*, (2012)

8 SCC 263: *“47.5. We hold, declare and direct that it shall be appropriate exercise of jurisdiction as well as ensuring just and fair investigation and trial that courts return a specific finding in such cases, upon recording of reasons as to deliberate dereliction of duty, designedly defective investigation, intentional acts of omission and commission prejudicial to the case of the prosecution, in breach of professional standards and investigative requirements of law, during the course of the investigation by the*



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investigating agency, expert witnesses and even the witnesses cited by the prosecution. Further, the courts would be fully justified in directing the disciplinary authorities to take appropriate disciplinary or other action in accordance with law, whether such officer, expert or employee witness, is in service or has since retired.”

15.After that enquiry, if the Commissioner found fault with the investigating officer, he is directed to take necessary disciplinary action and also the appropriate legal action against him.

16.Thiru.E.V.RAMASAMY, was called as “Thanthai Periyar” and he was called as Social Reformer of the backward community. He also is called as “Vaikkam Veerar”. Dravidar Kalagam was founded by him. One of the main object of the Dravidar Kalagam was to uplift the women and empowerment of the women. To achieve the same, Educational institution namely, schools and college exclusively for women were established by him. One such noble action was establishment of the women college in Trichy. Thiru.E.V.R. contributed Rs.50,000/- for acquiring the land for the construction of the said college, in the year 1965. Thereafter, then Chief Minister, then Government, accepted the said



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amount and acquired the land for the construction of the college after following the procedure stated in the land acquisition Act and deposited the award amount and taken the possession of the property and entrusted with the college authority. The said land worth Crores as on date has been swindled by the gang of land grabbers with active connivance of various Government authorities and the former Government pleader of Trichy. The said act is not only condemnable and also sad state of affairs of the Government. Even in this type of the fraudulent transaction, inaction on the part of the police department, is highly reprehensible and therefore, this Court is compelled to dispose this criminal original petition with certain directions.

17. Accordingly, this Criminal Original Petition is disposed of in the following terms:-

17.1.The negative report filed by the investigating officer in Crime No.833 of 2020 on the file of the 1st respondent police dated 26.09.2020, is hereby set aside.

17.2.The Commissioner of the Police is directed to appoint suitable senior level investigating officer to conduct the investigation and file the final report before the Court and newly appointed investigating officer shall conduct the



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investigation relating to the forgery of the revenue records in the town survey numbers as found by the DRO, apart from considering the allegation of damaging of the property of the defacto complainant and the allegation of the petitioner that the defacto complainant fraudulently made a claim over the Government property.

17.3.The said investigation shall be completed within a period of three months from the date of receipt of a copy of this order.

17.4.The petitioner is at liberty to challenge the out come of the further investigation.

Consequently, the connected criminal miscellaneous petition is closed.

15.07.2024

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
vsg



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To

1. The Inspector of Police,
K.K.Nagar Police Station,
K.K.Nagar, Tiruchirappalli-620 021
2. The District Revenue Officer,
Tiruchirappalli.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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K.K.RAMAKRISHNAN, J.

vsg

Crl.O.P(MD).No.12953 of 2020
and
Crl.M.P(MD). No.5907 of 2020

15.07.2024