



W.P(MD)Nos.6420 to 6423 of 2017 etc., batch

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON: **18.12.2023**

ORDER DELIVERED ON: **11.03.2024**

CORAM:

THE HONOURABLE **MR.JUSTICE B.PUGALENDHI**

W.P.(MD)Nos.6420 to 6423, 1172 to 1175 of 2017 and 24704 & 24709 of 2016
and

W.M.P.(MD)Nos.17805 to 17808 of 2016, 982 to 997 of 2017, 5043 to 5046 of
2017 and 17811 to 17814 of 2017

W.P.(MD)Nos.6420 of 2017:

P.Rengammal

... Petitioner

/Vs./

- 1.The District Collector,
Madurai District,
Madurai-625 020.
- 2.The District Revenue Officer,
Madurai District,
Madurai-625 020.
- 3.The Revenue Divisional Officer,
Madurai District,
Madurai-625 020.
- 4.The Tashildar,
Madurai South Taluk,
Madurai 625020.
- 5.The Commissioner of Land Administration,
Chennai.



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6.The Commissioner of Police,
Madurai City.

... Respondents

[R5 & R6 were suo motu impleaded vide Court order dated 06.11.2023]

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondents 1 to 4 to restore the petitioner in possession of the Plot No.35, Door No.115/1 in Old Survey No. 994/1A and T.S.No.116, Arapalayam Main Road, Melamadurai, Madurai-625 016 pending disposal of the above said writ petition.

For Petitioner	: Mr.K.Rajasekaran
For R1 to R5	: Mr.R.Baskaran Additional Advocate General assisted by Mr.G.V.Vairam Santhosh Additional Government Pleader
For R6	: Mr.B.Thanga Aravindh Government Advocate (Crl.Side)

ORDER

Since the issue raised in all the writ petitions are one and the same, these writ petitions are disposed of together through this common order.

2.The brief facts leading to the filing of these writ petitions are as follows:

(i)The property in question was classified as 'Cemetery cum burning ghat'.

Since the said land is not utilized by the Government, the petitioners herein and



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some other individuals had encroached upon the said land and they were in possession and enjoyment of the same for more than four decades. In the earlier round of litigation arising out of an eviction process, this Court directed the revenue authorities to grant patta to the long standing encroachers. Accordingly, the Thasildar on 21.07.2010 had granted patta to 42 individuals. Thereafter, several complaints were received alleging irregularities regarding patta issuance. Hence, a detailed enquiry was held and the assignment was cancelled on 28.08.2011. Challenging the same, the beneficiaries filed separate writ petitions before this Court.

3. Several writ petitions filed by the assignees/encroachers were disposed of by way of two common orders on various dates. It appears that as against the orders of this Court in the first batch of cases in WP(MD)Nos.781, 333, 3461 of 2017, etc., dated 01.04.2019, the Department has preferred appeals in WA(MD)Nos.1142 to 1144 of 2020. A Division Bench of this Court, wherein Myself was a party to the Bench, has entertained the appeals and granted an order of interim stay on 21.12.2020 in CMP(MD)Nos.6285, 6283, 6279 of 2020 in WA(MD)Nos.1142 to 1144 of 2020.



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4.While so, in the second batch of writ petitions in WP(MD)Nos.655 to 659 of 2017, the respondents have not placed the interim order of the Division Bench dated 21.12.2020 and therefore, this Court has passed the subsequent orders in this second batch of writ petitions on 26.06.2023.

5.In the present batch of writ petitions, though the respondents have engaged the services of the learned Additional Advocate General to defend the Government, the respondents have not preferred to file any counter affidavit for the past six years. Further, as against the order passed in the second batch of writ petitions in WP(MD)Nos.655 to 659 of 2017, dated 26.06.2023, it appears that the Department has not preferred any appeal so far. It was simply projected before this Court that this Court has already entertained two batch of cases of similarly placed persons on the very same area and allowed those writ petitions. Since I was aware of the facts of this case, as I have handled the issue in WA(MD)Nos. 1142 to 1144 of 2020 while sitting in the Division Bench, I directed the respondents to produce the entire files.

6.Accordingly, the learned Additional Advocate General has also produced 16 volumes of files from the revenue department. Perusal of these voluminous records reveals the following facts:-



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- As per the 'Descriptive Memoir' of Arappalayam village compiled on the introduction of re-settlement in Fasli 1328, the village was an 'existing ryot village (ayan gramam)' and resettlement was introduced in Fasli 1328. On completion of the settlement process, the records were handed over to the Revenue Department for maintenance on 26th April, 1921. The land in question viz. R.S. No. 994 stood classified as 'Poromboke' 'dry'. Later in Town Survey extract, entire extent of 02140.0 sq. Meters of land was classified as 'cemetery cum burning ghat'.
- On the order passed by the Division Bench of this Court in WP(MD)No. 684 of 2015, the encroachments were removed.
- Against the same, one Thiru Moorthy and 16 others filed a writ petition before this Court in WP(MD)Nos.6015 to 6024 and 7160 of 2005 and this Court dismissed the writ petitions by order dated 21.06.2007, however granted liberty to the authorities to assign house-site pattas for the long standing encroachers in accordance with rules, holding that the dismissal of the writ petitions would not preclude the Revenue authorities, if they are inclined to grant patta in accordance with the statutory provisions.
- On the request of the encroachers, the Madurai Municipal Corporation Council passed a resolution to issue 'No objection' to grant assignment to



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42 families who were the long standing encroachers on 28.03.2008 vide Resolution No. 331. In accordance with the resolution, the District Revenue Officer, Madurai, submitted proposals to the Special Commissioner and Commissioner for Land Administration on 18.07.2008 vide Roc. J4/90160/2007 for changing the classification of land from 'grave yard' to 'natham' to enable granting of assignment to the eligible persons. The Special Commissioner of Land Administration recommended the proposals in Lr.No.F2/21822/2008 dated 27.02.2009 and the Government of Tamil Nadu accepted the recommendation and passed G.O.Ms.No.359, Revenue Department, reclassifying an extent of 53 cents of land in S.No.994/1A from 'burial ground-poromboke' to 'village natham' dated 29.09.2009, with a direction to grant assignment of one cent of land to each 42 encroachers, 9 cents for road (public purpose) and 2 cents to the temple located therein.

- In accordance with the said order and on the direction issued by the District Revenue Officer, the Tahsildar, Madurai South in Roc.C3/23151/2007 dated 21.07.2010 granted house site pattas to 42 families at the rate of 1 cent per family and inasmuch as the family of one Amirtha Kani, W/o Gunasekaran has sufficient means since her husband is an employee of BSNL, a Central Government unit, assignment was made to her on



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collection of market value of Rs.5,23,200/-. But she did not pay and hence assignment was not given to her.

- On receiving lot of complaint petitions from several individuals that assignments have been made to ineligible persons, a detailed enquiry was ordered. It was found that out of 42 beneficiaries, 8 have not received patta and all the remaining 34 persons have not constructed houses even after a lapse of one year violating the assignment conditions imposed in 'D Form' which states that they should construct houses within a period of 6 months from the date of receiving the patta.
- Field inspection report also revealed that no beneficiary out of the 34 persons who were granted patta utilized the purpose for which assignment was granted, show cause notices were issued calling for explanation as to why house site pattas granted to them shall not be cancelled. Even notices could not be caused service since the whereabouts of most of the beneficiaries were not known.
- Hence by virtue of the powers conferred, the Revenue Divisional Officer, Madurai / the appellate authority cancelled the assignment granted to 42 individuals in Roc.No.14752/2009/C dated 28.08.2011.
- Being aggrieved over the same, the beneficiaries filed spate of writ petitions. The order passed by the Revenue Divisional Officer, Madurai



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dated 28.09.2011 was quashed by this Court by a common order in WP(MD)No.12699 of 2011, dated 03.04.2012, with a liberty to the Revenue Divisional Officer to send communication to the petitioners within a period of two weeks from the date of copy of the order directing them to appear for enquiry and on doing so, the petitioners shall appear before the Revenue Divisional Officer and produce all documents on the hearing date to establish that they have put up the construction only for living purpose and after holding enquiry, the Revenue Divisional Officer shall pass appropriate order within a further period of four weeks in accordance with law.

- The illegal occupants on the Government lands in T.S.No.116 of Arapalayam Village, Madurai were evicted by the application of due process of law on 04.11.2011 and the 45 cents were brought under the control of the Government.
- Another batch of writ petitions were filed by the petitioners viz. Devi, Ameerbeevi, Subbammal, Santhi and Nisanthi in WP(MD)Nos.20741, 20742, 20811 to 20813 of 2013, respectively, for the same prayer. This Court, by a common order dated 11.07.2014, by reiterating the earlier order passed, allowed these writ petitions.



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➤ In accordance with the orders of this Court, the petitioners herein were directed to appear for enquiry on 10.09.2014 vide Letter No.14752/2007 dated 02.09.2014 and to submit documentary proof to establish their contention that they have constructed house only for living purpose. They were enquired and for the purpose of verifying the veracity of their statements, field inspections were taken up and orders were passed by the Revenue Divisional Officer, Madurai.

➤ Tvl.Naamani, S.Palaniselvi, Thayammal, Jayalakshmi, Arasammal and Rajammal filed writ petition in WP(MD)No.17317 of 2015 and the Revenue Divisional Officer has filed a counter affidavit by stating that the field inspection revealed that one Gunasekaran, an employee of BSNL has encroached upon several plots and constructed a massive structure, whereas only an extent of 0.0040.0 hectares of lands were granted in assignment. In-fact though one Amirthakani was included in the assignment order for plot No.9, in view of the fact that she is a rich pattadar and that her husband is working in a Government of India run BSNL, assignment was ordered on payment of market value, but the said Amirthakani has not paid any amount, but hatched to obtain other nearby plots also. The petitioners herein who were assigned with plot Nos.10, 11,12,13, 14 and 41 have not constructed any house in the house-site



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granted to them and that they have not appeared before the Revenue Divisional Officer as per the orders of this Court and hence, for violation of assignment conditions, the assignment orders are liable to be cancelled.

- One Chellamani, Dhanam, P.Vijayalakshmi, M.Muthulakshmi, P.Sundari and Thangammal also filed writ petitions in WP(MD)Nos.16887 to 16892 of 2015 for the same cause of action and their request was also rejected as they have not constructed any houses. This Court by a common order in WP(MD)Nos.16887 to 16892 of 2015 dated 28.04.2016 dismissed the writ petitions holding as follows:-

“the petitioners have not constructed houses in the lands assigned in their favour and have violated the assignment conditions. The third respondent, in the impugned order, has considered the above facts in detail and passed a speaking order. It is seen from the order passed by the third respondent that all the 42 beneficiaries in whose favour lands were assigned have violated the conditions to construct a house within a period of one year. In such view of the matter, I do not find any reason to interfere with the orders which are impugned in these writ petitions. The writ petitions are devoid of merits, and therefore dismissed. Consequently all the connected miscellaneous petitions are closed”.

- The District Revenue Officer, Madurai after affording adequate opportunity of hearing to Tmt.G.Santhi and 11 others rejected the request of the



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assignees and directed the Tahsildar, Madurai West to update all relevant records restoring the land in T.S.No.116, Block No.3, Ward V (Old S.No. 994/1A) of Arapalayam Village, Madurai as 'Natham' vide orders in Pro.Roc.No.36118/2015 J4 dated 15.12.2016.

- Thiru Gunasekaran, his wife Amirthakani and one Thiru Murugesan filed writ petitions in WP(MD)Nos.1544 of 2019, 24427 of 2018 and 1153 of 2019 and this Court directed the District Collector, Madurai to dispose of the representation made by the petitioners. The District Collector, Madurai, after affording opportunity of hearing, passed an order rejecting the request in Pro Na.Ka.No.36118/2015/14 dated 16.09.2019.
- On the request of the Commissioner of Police, Madurai City that the place is required for construction of Karimedu Police Station within the heart of the city, 0.2140.0 Sq.Meters of land in T.S.No.116, Old Survey No.994/1A, Ward No.5, Block No.33 was identified, since this piece of land is available within the Karimedu Police Station jurisdictional limits and hence orders have been passed in Pro.Roc.17866/2015/Y2 dated 22.12.2016 transferring an extent of 0.2021.0 Sq.Meters of land in T.S.No.116 of Melmadurai Village, Madurai to the Police Department for the purpose of construction of C5-Karimedu Police Station with all modern amenities in terms of RSO 23-A and the Police Department have also been granted pre-entry



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permission. Hence the lands evicted for illegal occupation were put in use for larger public purpose of forming Police Station in one of the most sensitive and vulnerable areas in Madurai City.

7.The assignment pattas granted in favour of the petitioners herein and few others were cancelled by the Revenue Divisional Officer. Some of the petitioners herein have filed writ petitions for the relief of mandamus to restore their possession without challenging the cancellation orders and some others have filed writ petitions challenging the orders passed by the Revenue Divisional Officer and District Revenue Officer cancelling the grant of patta. The Revenue Divisional Officer and the District Revenue Officer have conducted a detailed enquiry and have held that out of 42 persons, 8 have not received the patta and the other persons, to whom patta was granted, were found to be fictitious and some of them were living in different towns. The conclusion arrived by the District Revenue Officer in his proceedings dated 15.12.2016 is extracted as under:-

“House tax receipts produced by Tmt.Nagammal, Paraniselvi, Thayammal, Jeyalakshmi, Arasammal and Rajammal appellants were perused and all they are tax receipts for vacant site. Paraniselvi, Santhi D/o.Gnanasekaran, Meena W/o.Velu, Ameer Beevi W/o.Kutham box have produced xerox copies of chalan for having remitted F Line fees for



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measurement, but none of them produce any type of acknowledgment or atleast copy of application made to the concerned official. Had they actually presented application for the measurement they could have got it done as like that of many others. Lay out sketches were given to all assignees along with patta itself which would be suffice to construct houses in their respective plots. Hence their citation that the assigned land was not measured and demarcated is only a lame excuse.

In order to confirm the living status of the appellants, I inspected the land in S.No.994/1A T.S.No.116 of Arapalayam Village on 20.08.2016 and I found that Gnanasekaran with his wife Pandiammal @ Pandiselvi alone was living that too temporarily and some persons in the name of original assignees, viz., Ameerbeevi, Meeni, Devi were arranged to be present and their alleged small sheds do not have any signs of living. Plot No.5 was allotted to Shanthi @ Pandiammal W/o.Gnanasekaran, as per assignment order, but one G.Shanthi represent for said Gnanaekaran. Moreover, the Shanthi @ Pandiammal has not filed any appeal petition in this Court. In W.P. filed in the Court as well as in this office for Gnanasekaran is one G.Shanthi, but G.Shanthi is a assignee for Plot No.6 and her father is Chandrasekaran and she is not living in the site allotted to her. As regards all other appellants, Ameer Beevi, Arasammal, Jeyalakshmi, Meena who appeared for enquiry and gave statement in this Court are suspected to have impersonated themselves besides non-residents in the site as described above. As regards Ayyammal, Nagamani, Thayammal, Shanthi D/o.Chandrasekar, Rasammal, Paraniselvi, they are found to be original assignees but none of them is living in the allotted house sites. Devi W/o.Gandhi is a subsequent purchaser and G.Shanthi whose actual name is C.Santhi D.o.Chandrasekar another assignee for Plot No.6 and her averments on behalf of Gnanasekaran is discarded.

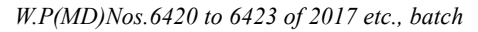


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My discreet enquiry reveals that, most of the original assignees were not given house site patta order and from beginning, they were living in other areas like cumbam and some other areas in Madurai town. They were not given house site patta and also they did not aware the writ petition filed in their name. The present scenario as if some of them are living is a dialectic tactics arrangements by few persons with malafide intention to grab the very high valuable government land that too with persons other than the original assignees and this is proved by their statement given in this court. The water tax receipts or letter to this effect seems to have been obtained from corporation by suppressing facts as most of deponents averred that there is no basic amenities in the assigned land. Hence, there is much confused contradictions in the entire process of assignment and all appeal petitions bear no truth and fidelity.”

8.The District Collector, who conducted an enquiry in the year 2019 pursuant to the direction of this Court in W.P.(MD)No.24427 of 2018 dated 12.12.2018 has observed as under:

“In the above narrated circumstances, I feel that such usurpation of valuable Government lands lying within the heart of the city converted for commercial purposes on the guise of dwelling houses for the poor and needy shall not be permitted and had to be controlled for the welfare of the posterity otherwise would give a wrong signal and those with money and houses can usurp house-sites intended for poor house-less families hailing from marginalized sections of the Society on



Hence the request by the petitioners are liable for rejection and accordingly rejected.”

10. These writ petitions were pending from the year 2017. The respondents have not bothered to file any response and place the correct facts before this Court. This Court had gone through the entire files and found out the



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real truth involved in this case. Considering the manner in which this case was defended and considering the value of the property involved in this case, this Court by an interim order dated 06.11.2023, issued the following directions:

“22.The Commissioner of Police, Madurai City, shall conduct an enquiry by deputing a team, as to the genuineness of the persons to whom the assignments were made on 21.07.2010. He shall ascertain as to whether the persons are fictitious and if they are available, whether they have resided at any point of time in this place and their status.

23.The District Collector, Madurai and Commissioner of Police, Madurai City, shall inspect the property, find out whether any person is residing in the place and if so, under what authority they are residing. They shall file a report as to the present condition of the disputed place and its value. In the event, if there is any occupation without authority, they shall be removed and the property shall be handed over to the Commissioner of Police, as per the earlier order of the District Collector dated 22.12.2016.

24.The District Collector shall order for an enquiry and shall find out the persons who are responsible for non-filing of counter affidavit in this writ petitions and the reasons not placing the relevant materials before the Government Pleaders in the earlier writ petitions.”



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11.This Court has also impleaded the Commissioner of Land Administration as a party to these writ petitions. On the directions of the Commissioner of Land Administration, the District Collector along with Commissioner of Police, Madurai City had inspected the site on 18.11.2023 and filed his report as under:-

“9.It is respectfully stated that accountability has been established for all Government Officers at every stage and level. In relation to the Revenue Department, the Taluk Tahsildar holds the responsibility of overseeing all Government lands within their jurisdiction, with the support of the Zonal Deputy Tahsildar, Revenue Inspector, and Village Administrative Officer. These individuals are supervised by the Revenue Divisional Officer and the District Revenue Officer, who in turn report to the District Collector. The Supervisory Officers conduct regular review meetings to ensure the proper execution of duties by the Tahsildar, Revenue Inspector, and Village Administrative Officer.

10. It is humbly submitted that the District Office Manual of Tamil Nadu State Government serves as a comprehensive guide for all Tamil Nadu State Government offices on how to conduct business within the government. It is also applicable to all Revenue Offices. Each section assistant of the Revenue Department is required to maintain a special Register for Suits. Initially, suit papers are handled in the Personal Register. Once the suits have been numbered in court, they are transferred to the Special Suits Register as outlined in Form VIII-A in Appendix B of the District Office Manual. The maintenance of this register is the responsibility of the Supervisory cadre officers, who



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must conduct monthly checks of both the Personal Register and the suit register. Writ petitions and Writ appeals should also be recorded in the suits register at the appropriate stages. Each section in an office must maintain a separate suit register, and the section head of the District Collector Office is accountable for its proper maintenance. The entry in the suits register should be closed upon receiving a copy of the judgment, and the matter should then be handled in a personal register until it is transferred to the "Special Register for Execution Proceedings" at the appropriate stage.

11. The sub-ordinate offices of Revenue Department are periodically inspected by the RDO and other Deputy Collectors in the District, DRO and the District Collector as cursory inspection and Annual inspection. During the inspection the maintenance of suit register must be ensured and the defects noticed are communicated to the office for rectification within a stipulated time. Apart from the said office inspections, a monthly District Revenue Administration is conducted by the District Collector in which court cases pending for filing of Counter and action to be taken on the direction of the Hon'ble courts are reviewed at district level.

12. It is humbly submitted that the District Collector is organizing Quarterly Co-Ordination and Review meetings with Government law officers and relevant officials to discuss court cases as per the direction of the Home(Courts) Department. During these meetings, cases that have been pending for a long time without a Counter Affidavit being filed and cases where orders have been issued against the Government's interests, as well as other sensitive cases, will be discussed. These cases in hand might have been presented at the meeting and a separate file with a serial number in



the special suits register will be maintained to send reminders to the Government Pleader. The concerned Government Pleaders will be reminded every six months from the date the case was entered in the suits Register.

13.It is humbly submitted that, with respect to the court cases, the District Collector is conducting Quarterly Co-Ordination and Review meeting with the Government law officers and the respective officials. In that review meeting, long pending cases in which Counter Affidavit not filed and the orders issued against the interest of the Government and other Sensitive cases have to be taken up for discussion. These cases might be placed before the meeting. A separate file bearing the serial number in the special suits register are maintained for sending reminders to Government Pleader. The Government Pleader concerned are reminded ordinarily once in six months, reckoning from the date on which the case has been entered in the suits Register.

14.It is submitted that the Commissioner of Land Administration has been conducting monthly review meetings with all the District Revenue Officers of the District to assess the performance and duties of the Revenue Authorities. The Government of Tamil Nadu has implemented the Integrated Court Case Monitoring System (CCMS) to establish a new management system and procedure for expediting the resolution of all cases and actively monitoring cases in which the government is a party. The CCMS provides real-time details of court cases filed before the High Court of Madras, enabling the government to respond to court directions by improving the management of court cases in a systematic way. It also



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allows for the fetching of the next hearing date, judgments/orders, and other details to help departments and heads of departments prepare for necessary action. The CCMS generates various MIS reports, including query-based reports based on given parametric values. Despite the availability of such an effective system, counter affidavits have not been filed in four cases for six years. The District Collector is instructed to take appropriate action against the erring officials.”

12.It is also reported that the Commissioner of Land Administration through his proceedings dated 12.04.2022 and 31.08.2023 allotted additional amount of Rs.3.60 crores to Madurai District for putting up wire-mesh fencing around the Government lands to keep them free from encroachment.

13.The Tahsildar, Madurai West has also filed a report on 07.12.2023 that the land in Survey No.994/1A (New Survey No.116) was handed over to Police Department to construct C-5 Karimedu Police Station by the proceedings of the District Collector in Roc.No.17886/2015/Y2, dated 05.12.2023.

14.The District Revenue Officer has also filed a detailed counter affidavit on the actions taken to review the earlier orders, which were obtained by suppressing the real facts and also initiated departmental proceedings as against the erring officials, who are responsible for not filing counter affidavit.



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15.This Court considered the rival submissions made on either side and also perused the materials placed on record.

16.The valuable property in Arapalayam was assigned in the name of fictitious person in the year 2009. The District Revenue Officer, who conducted enquiry, had found that even at the time of grant of patta, eight persons out of 42 have not received their patta and other persons, to whom patta was granted, are now living in different towns like Cumbum and some other areas in Madurai Town. Some of them are not even aware of the writ petitions filed in their names. The District Collector who conducted enquiry in the year 2019 has also recorded the manner in which a handful of people encroached upon the lands earmarked for burial ground for their personal enrichment.

17.The reports filed by the District Collector and the District Revenue Officer reveal that the existing encroachments have been removed and the land in question is handed over to the Police Department for construction of Karimedu C-5 Police Station.



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18.In view of the above submission, nothing remains to be considered in these writ petitions. Accordingly, these writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No
Internet : Yes / No
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To

- 1.The District Collector,
Madurai District,
Madurai-625 020.
- 2.The District Revenue Officer,
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Madurai-625 020.
- 3.The Revenue Divisional Officer,
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- 4.The Tashildar,
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- 5.The Commissioner of Land Administration,
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- 6.The Commissioner of Police,



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