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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26-03-2025

CORAM

THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

**WP No. 15922 of 2020
and WMP No. 19793 of 2020**

Arulmighu Kalyana Venkataramanaswami Koil
Rep. by its Executive Officer,
Avathipalayam,
Kaliyannur Village, Agraham Post,
Komarapalayam Taluk,
Namakkal District.

Petitioner(s)

Vs

1. The Commissioner of Land Administration
Chepauk, Chennai 600 005.

2. The Collector,
Namakkal District, Namakkal.

3. The Revenue Divisional Officer
Thiruchengode, Namakkal District.

4. The Tahsildar
Komarapalayam Taluk, Komarapalayam,
Namakkal District.



5.Kaliyanoor Village Panchayat,
Kaliyanoor Panchayat Board,
Pallipalayam Union, Namakkal
District, Rep. By Its President,
S.Ravi Kulandaivel, S/o.Subramani
Gounder.

Respondent(s)

(R5-impleaded as per order dated 23.07.2024 in Wp.15922/2020)

PRAYER Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 1st Respondent which culminated in the impugned order Proc.No.K4/24246/2017 dated 09.07.2020 quash the same and forebear the respondents from interfering with the lands of the Petitioner measuring 9.761 acres, 11.40 acres and 9.98 acres in Survey Nos.24, 25 and 124 respectively in Kliyanoor Village, Namakkal District.

For Petitioner(s): Mr.A.K.Sriram
Senior Counsel for
M/s.A.S.Kailasam and Associates

For Respondent(s): Mr.P.Kumaresan
Additional Advocate General
assisted by
Mrs.M.Jayanthi
Additional Government Pleader
for R1 to R4
Mr.G.Sankaran
Senior Counsel for
Mr.S.Nedunchezhiyan for R5

**ORDER**

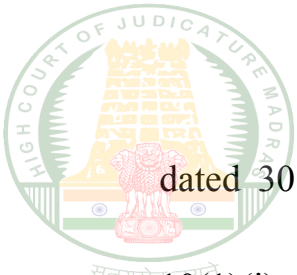
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This writ petition has been filed challenging the impugned proceedings of the 1st respondent dated 09.07.2020 and for a direction to forbear the respondents from interfering with the lands belonging to the petitioner measuring 9.761 acres, 11.40 acres and 9.98 acres in Survey Nos.24, 25 and 124 respectively at Kaliyanoor Village, Namakkal District.

2.The case of the petitioner temple is that they are the owners of the following properties:

<i>Survey No.</i>	<i>Extent (Hectares)</i>	<i>Extent (Acres)</i>
24	3.95.0	9.761
25	4.61.5	11.40
124	4.04.0	9.98

3.In the year 1972, the Settlement Tahsildar, Salem conducted an enquiry and passed an order to the effect that Kaliyanoor Agraharam is an Inam Estate which was notified and taken over by the Government in G.O.Ms.No.781 dated 12.03.1965 under Act 26 of 1963. The Settlement Tahsildar in his proceedings



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dated 30.06.1972 granted Ryotwari Patta under Section 12 read with Section 10(1)(i) of Act 26 of 1963 in favour of the petitioner temple. By virtue of the same proceedings, it was declared that the subject lands belongs to the temple and accordingly, Ryotwari Patta was granted under Act 26 of 1963.

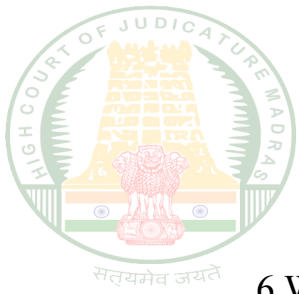
4. The above order passed by the Settlement Tahsildar was challenged by way of an appeal before the Tribunal in MIA No.2 of 1973 and the order passed by the Settlement Tahsildar was set aside and the matter was remanded for fresh enquiry. The Settlement Tahsildar once again conducted fresh enquiry and by an order dated 20.10.1975 granted joint patta in the name of Palaniyappan, Kaliyappan and Ramasamy. Hence, the matter was once again taken up on appeal before the Tribunal in MIA No.2 of 1976. Once again, the Tribunal set aside the order passed by the Settlement Tahsildar and remanded the matter for fresh disposal. There upon, the Assistant Settlement Officer, Salem passed an order granting patta in favour of the petitioner temple. This was challenged before the Minor Inams Tribunal in MIA No.1 of 1979 and the Tribunal confirmed the grant of patta in the name of the temple under Act 26 of 1963.



Thus, it is the specific case of the petitioner temple that the order of the Settlement Tahsildar was ultimately confirmed by the Tribunal.

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5. One Kaliyanna Gounder and eight others filed a suit in O.S.No.601 of 1987 before the Civil Court at Thiruchengode seeking for a declaration with respect to the property in S.Nos.24, 25 and 124 and sought for the relief of permanent injunction. Initially an ex-parte Decree was passed and later, on the application filed by the temple, the ex-parte Decree was set aside by an order dated 20.08.1997. Taking advantage of the ex-parte Decree, certain Sale Deeds came to be executed with respect to the lands in S.No.24. Thereafter, on 01.12.1992, the Housing Board had sent a letter intending to purchase the lands belonging to the temple under Section 34 of the Act. The said request was not able to be proceeded further. The various Sale Deeds that were executed did not bind the petitioner temple since it was done without obtaining permission under Section 34 of the HR & CE Act. That apart, certain encroachments were made in the subject properties and steps were taken for the removal of the encroachments from the property.



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6. While so, the Government Engineering College was proposed to be constructed in the land in S.No.24 and Regional Transport Officer was sought to be constructed in the land in S.No.25 and objections were invited. The same came to be questioned by one A.Shanmugam and two others by filing W.P.No.19160 of 2017 before this Court stating that S.Nos.24 and 25 belongs to the temple. This Court disposed of the writ petition by an order dated 26.07.2017, directing the Joint Commissioner of HR & CE Department, Salem to conduct an enquiry. The petitioners who filed the writ petition appeared before the Joint Commissioner. Thereafter, a report was submitted. The 2nd respondent through order dated 09.10.2017 held that S.Nos.24 and 25 are under the control and supervision of the Revenue Department and has been classified as 'Government Poramboke' and rejected the contentions made by the petitioners in that writ petition and the claim of the temple.

7. Thereafter another writ petition was filed in W.P.No.17313 of 2017 and this writ petition was disposed of by issuing directions. Based on the same, the



1st respondent through proceedings dated 09.07.2020 came to a conclusion that the subject properties have been recorded as 'Government Poramboke' in the revenue records and the lands are not under the control of the HR & CE Department. Accordingly, the order passed by the District Collector dated 09.10.2017, came to be confirmed. Aggrieved by the same, the present writ petition has been filed before this Court.

8.A counter affidavit has been filed by the 2nd respondent. The 2nd respondent has taken a stand that the subject property has been categorized as a 'Government Poramboke' and that the petitioner temple is not in control of the subject property and already steps have been taken to establish a Government Engineering College and also to construct the Regional Transport Office and therefore, sought for the dismissal of this writ petition.

9.This Court heard the learned Senior Counsel appearing on behalf of the petitioner and the learned Additional Advocate General appearing on behalf of respondents on 04.02.2025 and the following order came to be passed:



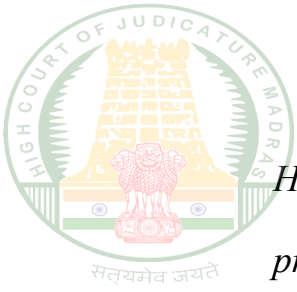
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Heard Mr.A.K.Sriram, learned Senior Counsel appearing on behalf of the petitioner and Mr.P.Kumaresan, learned Additional Advocate General appearing on behalf of the respondents 1 to 4.

2. The core issue that arises for consideration in the present writ petition is as to whether the title that was vested on the petitioner by virtue of the proceedings of the Inam Abolition Tribunal under Act, 26 of 1963, can be watered down / negated by the District Collector on the revenue side and whether such a jurisdiction is vested on the District Collector.

3. The above issue was answered by the learned Senior Counsel for the petitioner by placing reliance upon the judgment of this Court in K.S.Raja Shanmugavel Vs. The State of Tamil Nadu, rep. by its Secretary, Revenue Department and Others reported in 2011 (1) LW 626 and the judgment of the Division Bench of this Court made in W.A(MD).Nos.1154 etc., of 2017 dated 01.11.2018.

4. The judgments that were cited by the learned Senior Counsel appearing for the petitioner were under Act 30 of 1963.



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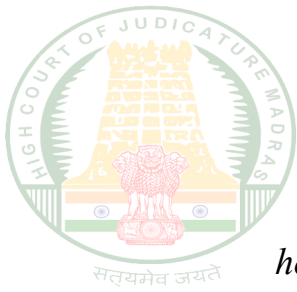
However, those judgments will have a direct bearing in the present case even though it has arisen under Act 26 of 1963, since the effect of the grant of Patta which is considered to be a document of title is in pari materia in both the enactments.

5. The learned Additional Advocate General submitted that the District Collector has taken into account various records and has found that certain vital documents were not considered when the Patta was granted in favour of the petitioner and seeks time to produce the relevant files before this Court.

6. The learned counsel for the 5th respondent seeks time to argue.

7. Post this Writ Petition under the caption 'part heard case' on 07.02.2025.

10. Pursuant to the above order, the matter was once again listed for hearing on various dates and on 20.02.2025, the following order came to be passed by this Court:



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Pursuant to the earlier orders, the matter was listed for hearing today. The learned Senior counsel appearing on behalf of the petitioner submitted the following details regarding the patta that was issued in favour of the petitioner :-

**COMPARISION TABLE OF LANDS WITH EXTENT AND SURVEY NOS
BEFORE THE FORUMS.**

BEFORE THE SETTLEMENT TAHSILDAR, SALEM

Proceedings No. S.R. No. 7 (30.06.1972)

S. Nos.	Extent	Nature of Order
24/7	0.48	Patta allowed in the name of Sri. Kalyanavenkataramanaswami Temple at Avathipalayam.
24/11	0.76	
124/9	1.59	

Proceedings No. S.R. No. 15 (30.06.1972)

S. Nos.	Extent	Nature of Order
25/3	1.08	Patta allowed in the name of Sri. Kalyanavenkataramanaswami Temple at Avathipalayam.
25/6	1.34	

Proceedings No. S.R. No. 4,12 & 26 (30.06.1972)

S. Nos.	Extent	Nature of Order
24/4	0.59	Patta allowed in the name of Sri. Kalyanavenkataramanaswami Temple at Avathipalayam.
24/12	0.84	
124/12	1.16	

Proceedings No. S.R. No. 5 & 23 (30.06.1972)

S. Nos.	Extent	Nature of Order
24/5	0.59	Patta allowed in the name of Sri. Kalyanavenkataramanaswami Temple at Avathipalayam.
124/6	0.58	

**Proceedings No. S.R. No. 3,10,20,21,22 & 25 (30.06.1972)**

S. Nos.	Extent	Nature Of Order
24/3	0.91	Patta allowed in the name of Sri. Kalyanavenkataramanaswami Temple at Avathipalayam.
24/10	0.87	
124/2	1.04	
124/3	0.09	
124/5	0.90	
124/10	1.20	

Proceedings No. S.R. No.3,10,20,21,22 & 25 dated 30.08.1978

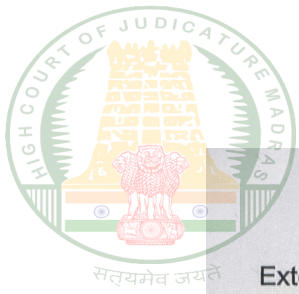
(Same as above)

BEFORE THE MINOR INAM ABOLITION TRIBUNAL, SALEM

M.I.A No. 4835/1979 (05.08.1980)

Confirming Order dated 30.08.1978

2. The learned Additional Advocate General submitted the following details which is scanned and extracted hereunder :-



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Extent mentioned in the Proceedings of the **Commissioner of Land Administration**
in Proc.No.K4/24246/2017 dated 09.07.2020

Namakkal District
Kumarapalayam Taluk
Kaliyanoor Village

Survey Nos	Extent in Hectares	Extent in Acres
24	3.95.0	9.76
25	4.61.5	11.40
124	4.04.0	9.98
Total	12.60.50	31.14 Acres

According to the **Assistant Settlement Officer's** proceedings in
S R. Nos.3, 10, 20, 21, 22 & 25 of 1972 dated 30.08.1978 which was confirmed by
the **Minor Inams Abolition Tribunal, Salem** in M.I.A. No.1 of 1979 dated
05.08.1980

Namakkal District (Then Salem District)
Kumarapalayam Taluk (Then Tiruchengode Taluk)
Kaliyanoor Village

Survey Nos	Extent in Hectares	Extent in Acres
24/3	0.37.00	0.91
24/10	0.35.00	0.87
124/2	0.42.00	1.04
124/3	0.03.50	0.09
124/5	0.36.50	0.90
124/10	0.48.50	1.20
Total	2.02.50	5.01



According to The Settlement Tahsildar, Salem dated 30.06.1972 which was later set aside by the Minor Inam Abolition Tribunal in M.I.A. No.2 of 1973.

S.R.Nos	Survey Nos	Extent in Hectares	Extent in Acres
7	24/7	0.19.50	0.48
7	24/11	0.30.00	0.75
7	124/9	0.64.50	1.59
Total		1.14.00	2.82

According to The Settlement Tahsildar, Salem dated 30.06.1972 which was later set aside by the Minor Inam Abolition Tribunal in M.I.A. No.2 of 1973.

S.R.Nos	Survey Nos	Extent in Hectares	Extent in Acres
15	25/3	0.43.5	1.08
15	25/6	0.54.00	1.34
Total		0.97.50	2.42

According to The Settlement Tahsildar, Salem dated 30.06.1972 which was later set aside by the Minor Inam Abolition Tribunal in M.I.A. No.2 of 1973.

S.R.Nos	Survey Nos	Extent in Hectares	Extent in Acres
4	24/4	0.24.00	0.59
12	24/13	0.34.00	0.84
26	124/12	0.47.00	1.16
Total		1.05.00	2.59
Grand Total		3.16.50	14.01



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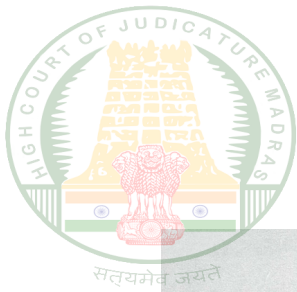
According to The Settlement Tahsildar, Salem dated 30.06.1972 which was later set aside by the Minor Inam Abolition Tribunal in M.I.A. No.2 of 1973.

S.R.Nos	Survey Nos	Extent in Hectares	Extent in Acres
5	24/5	0.24.00	0.59
23	124/6	0.23.50	0.58
Total		0.47.50	1.17

According to The Settlement Tahsildar, Salem dated 30.06.1972 which was later set aside by the Minor Inam Abolition Tribunal in M.I.A. No.2 of 1973.

S.R.Nos	Survey Nos	Extent in Hectares	Extent in Acres
3	24/3	0.37.00	0.91
10	24/10	0.35.00	0.87
20	124/2	0.42.00	1.04
21	124/3	0.03.50	0.09
22	124/5	0.36.50	0.90
25	124/10	0.48.50	1.20
Total		2.02.50	5.01

Grand Total 3.16.50 14.01

**Extent alienated to other Departments**

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Namakkal District
Kumarapalayam Taluk
Kaliyanoor Village

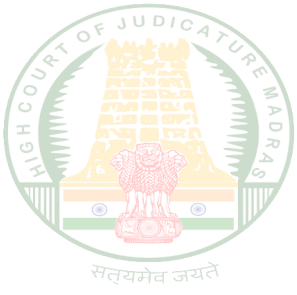
New S.Nos.	Extent in Hectares	Extent in Acres	Enter upon given to
24/1	2.37.00	5.85	Directorate of Technical Education, Chennai
25/1	1.91.75	4.73	Directorate of Technical Education, Chennai for Construction of Govt Engineering College vide Proceedings of The District Collector, Namakkal in Ni.Mu.19164/2017/L2 dated 06.12.2017
25/4	0.81.00	2.00	Directorate of Technical Education, Chennai for Construction of Govt Engineering College vide Proceedings of The District Collector, Namakkal in Ni.Mu.19164/2017/L2 dated 06.12.2017
25/6	1.19.50	2.95	Regional Transport Office vide Proceedings of The District Collector, Namakkal in Ni.Mu.19850/2017/L2 dated 07.01.2019
Total	6.29.25	15.55	

Total Extent : 31.14 Acres (-)
Extent dealt in Minor Inam Abolition Tribunal : 05.01 Acres (-)

Balance : **26.13 Acres (-)**

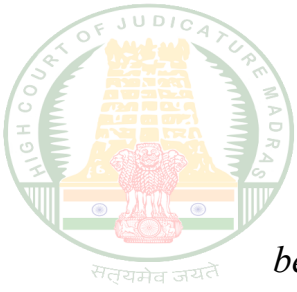
Enter upon to : 15.55 Acres (-)

Remaining lands vesting with Revenue Department : **10.58 Acres**



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3. The learned Additional Advocate General submitted that the proceedings of the Settlement Tahsildar dated 30.06.1972 was set aside by the Tribunal in MIA No.2 of 1973 and the matter was remanded back to the file of the Settlement Tahsildar. The Settlement Tahsildar passed an order dated 20.10.1975 which once again went back to the Tribunal and was dealt with and the Tribunal by an order dated 29.03.1977 set aside the order of the Settlement Tahsildar and once again remanded the matter for fresh disposal. In view of the same, it was submitted that the claim made by the petitioner temple with respect to the Survey numbers covered by the order passed by the Settlement Tahsildar dated 30.06.1972 is unsustainable and at the best, the petitioner temple is only entitled for 5.01 acres as per the order passed by the Assistant Settlement Officer dated 30.08.1978 which was confirmed by the Tribunal by an order dated 05.08.1980. As a consequence, out of the total extent of 31.14 acres, an extent of 5.01 acres can be carved out and given to the petitioner and the balance extent of 26.13 acres will be utilized by the Government out of which already 15.55 Acres has been allocated and given to various departments.

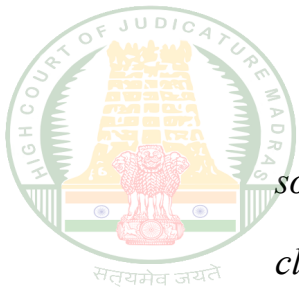


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4. *Per contra*, the learned Senior counsel appearing on behalf of the petitioner submitted that the reference made by the Tribunal in its order dated 05.08.1980, does not pertain to SR Nos.7,15,14,12,26, 5 and 23 which are all covered in the order passed on 30.06.1972 by the Settlement Tahsildar, Salem. The learned Senior counsel submitted that the proceedings before the Tribunal confined itself only to SR Nos.3, 10, 20, 21, 22 and 25. It is only these specific survey numbers which were dealt with by the Assistant settlement Officer and which was confirmed by the Tribunal and there was no occasion either for the Assistant Settlement Officer or for the Tribunal to deal with the other survey numbers that was considered by the Settlement Officer while issuing the proceedings dated 30.06.1972. Accordingly, it was contented that the petitioner is entitled for the entire extent of 31.14 acres.

5. The above confusion can be easily resolved if the two earlier orders which has been referred in the proceedings of the Tribunal dated 05.08.1980 are produced before this Court. This is in view of the fact that there is no clarity either in the order passed by the Assistant Settlement Officer dated 30.08.1978 or in the order passed by the Tribunal dated 05.08.1980.

6. The learned Additional Advocate General seeks for



some time to produce the relevant orders and to give more clarity on the stand taken by the respondents.

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7. Post this case under the caption “part heard cases” on 26.03.2025.

11.The learned Additional Advocate General appearing on behalf of the respondents submitted that the order passed by the Settlement Tahsildar dated 30.06.1972 was set aside by the Tribunal in MIA No.2 of 1973 and the matter was remanded back to the file of the Settlement Tahsildar. Thereafter, the Settlement Tahsildar once again passed an order on 01.10.1975 which once again went back to the Tribunal in MIA No.2 of 1976 and once again, the Tribunal set aside the order passed by the Settlement Tahsildar and remanded the matter for fresh disposal. In view of the same, it was submitted that the claim made by the petitioner temple with respect to the subject property is unsustainable. Thus, the submissions made by the learned Additional Advocate General and which was recorded by this Court on 20.02.2025 was reiterated.

12.The respondents have placed specific reliance upon the order passed by the Tribunal dated 05.08.1980 made in MIA No.1 of 1979. On carefully



going through the said order, it is seen that it pertains to SR Nos.3, 10, 20, 21, 22 and 25. In the earlier order passed on 20.02.2025,. those survey numbers which are covered in the SR that was dealt with by the Tribunal has already been taken note of.

13.The specific case of the petitioner temple is that the order of the Tribunal dated 05.08.1980 does not pertain to SR Nos.7, 15, 14, 12, 26, 5 and 23. These SR numbers specifically covers S.Nos.24, 25 and 124 which are the subject matter in the present writ petition. There is absolutely no material before this Court to show that the proceedings of the Settlement Tahsildar dated 30.06.1972 came to be set aside by the Tribunal at any point of time. The order passed by the Tribunal dated 05.08.1980 which is relied upon on the side of the respondents does not pertain to these SR numbers which covers to the subject properties. If no records are available to show that the order passed by the Settlement Tahsildar dated 30.06.1972 was reversed at any point of time, it must only be taken that the said order has become final. If the said order has become final, the consequence will be that the District Collector on the revenue side will



not have the power or jurisdiction to negate the order passed by the Settlement Tahsildar under Act 26 of 1973. The law on this issue is now too well settled.

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The judgments that were relied upon by the learned Senior Counsel in this regard was already taken note of by this Court in the earlier order dated on 04.02.2025.

14. In spite of several opportunities given by this Court to the respondents to produce the relevant orders/records to establish that the order passed by the Settlement Tahsildar dated 30.06.1972 has been dislodged, no such orders/records were produced before the Court. In view of the same, it cannot be assumed that the order of the Settlement Tahsildar, Salem dated 30.06.1972 was interfered by the proceedings of the Minor Inams Abolition Tribunal, Salem in MIA No.1 of 1979 dated 05.08.1980. If that is the consequence, the claim made by the temple with respect to the entire extent of 31.14 acres in the subject properties will have to be sustained. This claim made by the petitioner temple cannot be negated or watered down by the Collector on the revenue side.



15. In the light of the above discussion, the proceedings of the 1st respondent dated 09.07.2020, is hereby quashed and this Court declares that the petitioner temple is the owner of the subject properties in S.Nos.24, 25 and 124 and the respondents are restrained from interfering with the lands belonging to the petitioner temple.

16. In the result, this writ petition stands allowed. No Costs. Consequently, connected miscellaneous petition is closed.

26-03-2025

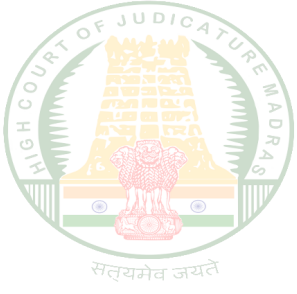
Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

1. The Commissioner of Land Administration
Chepauk, Chennai 600 005.

2. The Collector,
Namakkal District, Namakkal.

3. The Revenue Divisional Officer
Thiruchengode, Namakkal District.

4. The Tahsildar
Komarapalayam Taluk, Komarapalayam,
Namakkal District.



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23/23

WP No. 15922 of 20



N.ANAND VENKATESH J.

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WP No. 15922 of 2020

26-03-2025