



W.P.Nos.25987 of 2021 and 9212 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2025

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CORAM

THE HONOURABLE MR. JUSTICE M.SUNDAR
and
THE HONOURABLE MR. JUSTICE HEMANT CHANDANGOUDAR

W.P.Nos.25987 of 2021 and 9212 of 2010

&

W.M.P.No.27448 of 2021

W.P.No.25987 of 2021

Smt.R.Ramubai (deceased)

1. Chandra Singh.G
2. Prathap Singh.R
3. Shankar Singh.R
4. Keshava Singh.R

... Petitioner

***(Petitioners 1 to 4 substituted vide order dated 04.07.2025 made in
W.M.P.No.14104 of 2025)***

vs.

1. The State of Tamil Nadu rep. By
the Additional Chief Secretary
Revenue & Disaster Management Department
Fort St.George, Chennai – 600 009
2. The Secretary
Revenue Department
Fort St.George, Chennai – 600 009



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3. The Managing Director
Tamil Nadu Housing Board
493, Anna Salai, Nandanam
Chennai – 600 035

4. The District Collector
Krishnagiri District, Krishnagiri

5. The Tahsildar
Hosur, Krishnagiri District

6. The Executive Engineer
Tamil Nadu Housing Board
Hosur Housing Section
Bagalur Road, Hosur – 635 109

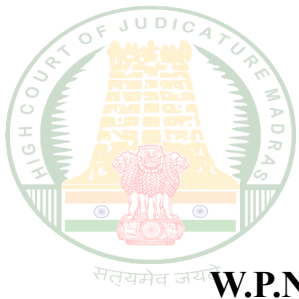
... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus calling for the records relating to the order of the 1st respondent made in G.O.Ms.No.129, Revenue Disaster Management Department, Land Disposal Wing [LD5(2)] Section dated 01.02.2021 and that of 6th respondent's order made in Letter No-B2/5289/2005 dated 03.11.2021 to quash the same and to consequently direct the respondents to consider the claim of the petitioner for appropriate assignment and patta thereto.

For petitioner : Ms.N.R.Jasmine Padma

For Respondents : Mr.D.Veerasekaran
Standing counsel for R3 and R6
(TNHB)

Mr.T.K.Saravanan
Additional Government Pleader
R1, R2, R4 and R5



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Smt.Ramubai

1. Chandra Singh.G
2. Prathap Singh.R
3. Shankar Singh.R
4. Keshava Singh.R

... Petitioners

(Petitioners 1 to 4 suo motu impleaded vide this order)

Vs.

1. The Secretary to Government
Revenue Department
Fort St.George, Chennai – 9
2. The District Collector
Krishnagiri District
3. The Tahsildar
Hosur, Krishnagiri District

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a writ of certiorari calling for the records relating to the proceedings in No.30608/Ni.Mu3(2)/08 passed by the 1st respondent dated 17.11.2008 and quash the same and further direct the respondents to assign the lands in Survey No.881 of Hosur District, Krishnagiri District in favour of the petitioner herein.

For petitioner : Ms.G.Priyadharshini
for Mr.G.M.Ananthakumar

For Respondents : Mr.T.K.Saravanan
Additional Government Pleader

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for R1 to R3

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COMMON ORDER

[Order of the Court was made by M.SUNDAR, J.]

Captioned two main 'Writ Petitions' ['WPs' in plural and 'WP' in singular for the sake of brevity] originally were filed by one Ramubai, pending writ petitions, Ramubai died on 22.10.2024 and her four sons, who are her legal heirs (Legalheirship Certificate dated 04.12.2024) have been substituted as writ petitioners vide an order made today (04.07.2025) in W.M.P.No.14104 of 2025 as regards W.P.No.25987 of 2021. In W.P.No.9212 of 2010, four sons of Ramubai have *suo motu* been substituted.

2. To be noted, in W.P.No.9212 of 2010, Ms.G.Priyadharshini, learned counsel representing Mr.G.M.Ananthakumar, counsel on record for writ petitioners is before us and learned counsel expresses regret for not representing the matter in the previous listing.

3. In W.P.No.25987 of 2021, Ms.N.R.Jasmine Padma, learned counsel on record for writ petitioner is before us. Nonetheless as Ms.N.R.Jasmine Padma, learned counsel has vakalatnama from the four writ petitioners in



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W.P.No.25987 of 2021, with her consent, we heard her out in both WPs.

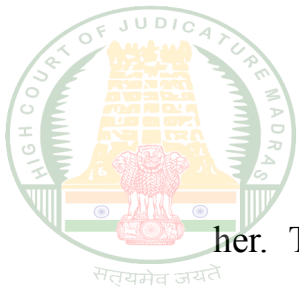
WEB COPY 4. As regards respondents, Mr.T.K.Saravanan, learned Additional Government Pleader for R1, R2, R4 and R5 in W.P.No.25987 of 2021 and R1 to R3 in W.P.No.9212 of 2010 and Mr.D.Veerasekaran, learned Standing counsel for TNHB for R3 and R6 in W.P.No.25987 of 2021 are before us.

5. This Court, with the consent of all the afore-referred counsel, took up the main WPs and the same were heard out.

6. Subject matter of captioned main WPs is 'land admeasuring 4.50 acres or thereabouts in S.No.881 in Nalliga Betta Agharagram Village, Hosur Taluk, Krishnagiri District, which is 'Government Poramboke Vaari' (hereinafter 'said land' for the sake of brevity and convenience).

7. Captioned matters turn on a very narrow compass. Writ petitioners' father one Mr.R.Ram Singh admittedly encroached upon said land and after his demise, his spouse (afore-referred Ramubai) continued the occupation followed by the writ petitioners.

8. Aforereferred Ramubai came to this Court vide W.P.No.38181 of 2004 seeking to mandamus the official respondents to assign said land to



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her. This WP along with WMP thereat came to be disposed of by a Hon'ble

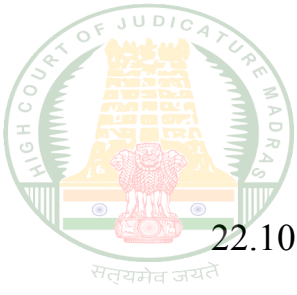
single Judge of this Court in and vide order dated 30.06.2008. Paragraphs 2

and 3 of this order read as follows:

'2. The prayer in the writ petition is for a direction to the respondents to assign the land comprised in Survey No.881 in Hosur, Krishnagiri District measuring 4 acres 50 cents in favour of the petitioner.'

3. The petitioner claims that her husband Mr.Ram Singh encroached upon the said land in the year 1944 and he was in possession and enjoyment of the said land and B memo were also issued in the name of the husband. After his death, the petitioner has been in possession and enjoyment of the property and B Memo has been issued in her name, it is contended by the petitioner.'

9. The afore-referred paragraphs make it clear that it is the stated position of the writ petitioners that they have encroached upon said land. To be noted, said land is Government land and as already alluded to supra, it is 'Government Poramboke Vaari'. In the afore-referred 30.06.2008 order, prayer of the writ petitioner to mandamus the official respondents to assign said land was not acceded to but State was directed to pass necessary orders on writ petitioner's representation dated 11.11.2001 (representation seeking assignment in the light of report of jurisdictional Tahsildar dated



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22.10.2002).

WEB COPY 10. Post 03.06.2008 order in aforementioned W.P.No.38181 of 2004, writ petitioner (Ramubai) sent another representation dated 27.08.2008 seeking assignment and the State passed an order dated 17.11.2008 bearing Letter No.30608/நிழ3(2)/08 rejecting the request for assignment *inter alia* on the grounds that it is objectionable encroachment; that Hosur Town is a developing area; that said lands are very valuable; that said lands are adjacent to TNHB apartments and that said lands will be required in future for further development. This '17.11.2008 order' made by R1 shall be referred to as 'I Impugned order' of the sake of convenience. Assailing I impugned order, W.P.No.9212 of 2010 has been filed. This writ petition is more than 1 ½ decades old as it was filed in April of 2010 (23.04.2010 to be precise).

11. Pending W.P.No.9212 of 2010, State [Revenue and Disaster Management Department, Land Disposal Wing [LD5(2)] Section] made an 'order dated 01.02.2021 bearing reference G.O.(Ms.) No.129' [hereinafter 'II Impugned order' for the sake of convenience] allotting /alienating said lands in favour of TNHB along with lands in S.Nos.876 and 11/6 which are also



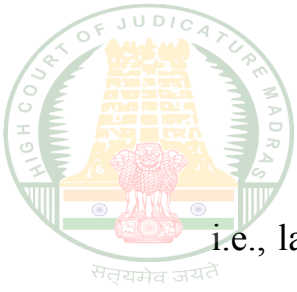
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classified as 'Government Poramboke Vaari' admeasuring 9.35 acres or thereabouts in all, based on a proposal of TNHB, which we are informed, is for a project to put up residential apartments. Thereafter, R6 issued a 'notice dated 03.11.2021 bearing reference Letter No. 2/5389/2005' [hereinafter 'impugned letter of TNHB' for the sake of convenience] calling upon the writ petitioner to vacate i.e., to evict the writ petitioner.

12. Assailing II impugned order and impugned letter of TNHB, W.P.No.25987 of 2021 has been filed.

13. The pivotal argument of learned counsel for writ petitioners is that the said land has been put to agricultural use and agricultural activity was done by writ petitioners for almost 70 years now. It was also pointed that writ petitioners were making payments under B memo. To be noted, payment made under B memo is vide 'the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' {hereinafter 'said 1905 Act' for the sake of brevity} and that is the penalty for encroachment.

14. This Court finds that there is no legal right to seek assignment. The assignment has not been sought under any specific provision. This Court also finds that said land is now required for a larger public purpose



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WEB COPY i.e., larger public interest (putting up residential apartment by TNHB); that said land will be required for future development has already been set out in I impugned order by State.

15. Learned State counsel submitted that as averred in the I impugned order, Hosur is a fast developing town and there is industrial activity in and around Hosur. The housing needs or shelter needs of citizenry has gone up and that has necessitated the project of putting Housing Board apartments. This submission was echoed emphatically by learned Standing counsel for TNHB.

16. In the light of the narrative thus far, absent any legal right for the writ petitioners to seek assignment and considering the larger public interest about which there is allusion supra, we have no hesitation in holding that I impugned order refusing assignment to writ petitioners and II impugned order assigning the lands to TNHB do not deserve to be interfered with. We sustain the I and II impugned orders.

17. The above takes this order to impugned letter of TNHB. Learned Standing counsel for TNHB, Mr.D.Veerasekaran submitted that TNHB has powers to evict persons in unauthorized occupation as regards TNHB and



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that such powers are vide Section 84 of 'Tamil Nadu State Housing Board Act, 1961 (Tamil Nadu Act, 17 of 1961)' [hereinafter 'TNHB Act' for the sake of convenience].

18. A careful perusal of TNHB Act brings to light two points. First point is that it provides that the persons sought to be evicted from TNHB lands has to be show-caused and given a reasonable opportunity of tendering an explanation / producing evidence within a period to be specified in the notice. To be noted, this is vide sub-section (2) of Section 84 of TNHB Act. We find that the impugned TNHB letter does not show-cause the writ petitioners (writ petitioners' mother) but it directly calls upon the noticee to remove herself from said land. The second point is, a notice under Section 84 should be issued by 'Competent Authority', Competent Authority is a term of art i.e., a defined term defined vide Section 2(6) of TNHB Act, which says that 'Competent Authority' means a person or Authority authorized by the Government, by notification, to perform functions under Chapter XI (to be noted, Section 84 is slotted under Chapter XI).



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19. As regards the first aspect of Section 84 supra, we deem it appropriate to say that the impugned letter of TNHB is not interfered with /dislodged but it will now be construed as a 'SCN' ('Show-cause Notice') vide Section 84(2) and writ petitioners will be given a fortnight time to give explanation to the same, which obviously has to be considered as per Section 84 of TNHB Act.

20. We also make it clear that the impugned TNHB letter is addressed to Ramubai and in the light of her demise on 22.10.2024 and her legal heirs having come on record, the impugned letter of TNHB shall now be construed to be a notice served on the four writ petitioners today.

21. In the light of the narrative, discussion and dispositive reasoning thus far, the following order is made:

i) I impugned order being order dated 17.11.2008 bearing Letter No.30608/நிழ(2)/08 and II impugned order being order dated 01.02.2021 bearing reference G.O.(Ms.) No.129 are not being interfered with and the certiorari prayers qua these two impugned orders are negatived;

ii) As regards impugned TNHB letter being letter dated



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03.11.2021 bearing reference Letter No. 112/5389/2005, the same is not interfered with and dislodged but the same is now to be construed as a SCN vide Section 84 of TNHB Act and should also be considered as having been served on the four writ petitioners today;

iii) All the rights and contentions of writ petitioners to give an explanation/produce evidence in response to the afore-referred SCN are preserved and the writ petitioners shall do so within a fortnight from today i.e., on or before 18.07.2025;

iv) In the writ petitioners' explanation, the question as to 'Competent Authority' vide Section 84 of TNHB Act is left open as it is the stated position of learned Standing counsel for TNHB that R6 qualifies as a 'Competent Authority' vide Section 2(6) of TNHB Act and authorization by Government notification in this regard vide Section 2(6) is not part of the case file. To be noted, this is the reason why this question is left open.

v) The explanation/evidence produced by writ petitioners



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in response to afore-referred impugned letter of TNHB which is construed as an SCN shall be considered on its own merits and in accordance with law, more particularly in accordance with Section 84 of TNHB Act and other provisions of TNHB Act;

vi) Though obvious we make it clear that coercive action, if any and if that be so, will be subject to the quasi-judicial drill under Section 84 of TNHB Act which has been adverted to supra.

Captioned two main WPs are disposed of in the aforesaid manner. W.M.P.No.27448 of 2021 has become otiose as we have made it clear that coercive if any will be subject to quasi-judicial drill under Section 84 of TNHB Act and the same is disposed of as closed having become otiose. There shall be no order as to costs.

[M.S., J.]

[H.C., J.]

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Neutral Citation : Yes

Speaking order

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State of Tamil Nadu
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