



W.P.Nos.35199 & 13182 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :05.02.2025

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE K.RAJASEKAR

W.P.Nos.35199 & 13182 of 2024

1.R.Vetri

2.N.Sivaraman

... Petitioners in both Petitions

Vs.

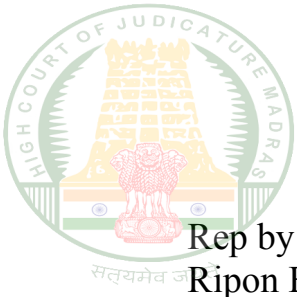
1.The Government of Tamil Nadu,
represented by its Principal Secretary,
Revenue Department,
Fort St.George,
Chennai – 600 009.

2.The Special Commissioner and
The Commissioner of Land Administration,
Chepauk, Chennai – 600 005.

3.The Collector of Chennai,
Chennai District,
Singaravelar Maligai, Rajaji Salai,
Chennai – 600 001.

4.The Thasildhar,
Ayanavaram Taluk, (Opposite Ayanavaram Water Tank),
No.1, Palli Arasan Street,
New Avadi Road, Ayanavaram,
Chennai – 600 023.

5.The Corporation of Chennai,



W.P.Nos.35199 & 13182 of 2024

Rep by its Commissioner,
Ripon Buildings, Chennai – 600 003.

WEB COPY

6.Chennai Metropolitan Development Authority,
Thalamuthu – Natarajan Maaligai,
No.1, Gandhi Irwin Road,
Egmore, Chennai – 600 008.

7.The Zonal Executive Engineer,
(Zone-VI), GCC,
No.5, Anderson Road,
Ayanavaram, Chennai – 600 023.

8.Arulmigu Somanatha Swami Temple,
rep by its Executive Officer,
Kolathur, Chennai – 600 099. ... Respondents in W.P.No.35199 of 2024

1.The Government of Tamil Nadu,
represented by its Principal Secretary,
Revenue Department,
Fort St.George,
Chennai – 600 009.

2.The Special Commissioner and
The Commissioner of Land Administration,
Chepauk, Chennai – 600 005.

3.The Collector of Chennai,
Chennai District,
Singaravelar Maligai, Rajaji Salai,
Chennai – 600 001.

4.The Thasildhar,
Ayanavaram Taluk, (Opposite Ayanavaram Water Tank),
No.1, Palli Arasan Street,
New Avadi Road, Ayanavaram,
Chennai – 600 023.

5.The Corporation of Chennai,
Rep by its Commissioner,



W.P.Nos.35199 & 13182 of 2024

Ripon Buildings, Chennai – 600 003.

6.Chennai Metropolitan Development Authority,
Thalamuthu – Natarajan Maaligai,
No.1, Gandhi Irwin Road,
Egmore, Chennai – 600 008.

7.Arulmigu Somanatha Swami Temple,
rep by its Executive Officer,
Kolathur, Chennai – 600 099. ... Respondents in W.P.No.13182 of 2024

Prayer in W.P.No.35199 of 2024: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Mandamus, to demolish the building illegally constructed in the disputed land admeasuring an extent of 1.05 Acres comprised in R.S.No.138/2B and R.S.No.138/2, Kolathur Village.

Prayer in W.P.No.13182 of 2024: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Mandamus, direction not to take any illegal construction activities by the respondents 1 to 6 in the disputed land admeasuring an extent of 1.05 acres comprised in R.S.No. 138/2B, Kolathur Village.

(In W.P.No.35199 of 2024)

For Petitioners : Mr.T.Thiageswaran
for M/s.Waraon and Sairams

For Respondents : Mr.R.Ramamlaal
Additional Advocate General asst. by
Mr.T.Arunkumar,
Additional Government Pleader (for R1-4)
Mr.A.C.Mani Bharathi,
Standing Counsel for GCC for R5 & 7
R.Shunmuga Sundaram, Senior Counsel



WEB COPY



W.P.Nos.35199 & 13182 of 2024

for Mr.R.Sivakumar,
Standing Counsel for CMDA (for R6)
and Mr.S.Munurajan and Ms.Shakeenaa
AG (for R8)

(In Writ Petition No.13182 of 2024)

For Petitioners : Mr.T.Thiageswaran
for M/s.Waraon and Sairams

For Respondents : Mr.R.Ramamlaal
Additional Advocate General asst. by
Mr.T.Arunkumar,
Additional Government Pleader (for R1-4)
Mr.E.C.Ramesh,
Standing Counsel for GCC for R5
R.Shunmuga Sundaram, Senior Counsel
for Mr.R.Sivakumar,
Standing Counsel for CMDA (for R6)
and Mr.S.Munurajan and Ms.Shakeenaa
AG (for R7)

COMMON ORDER

(Order of the Court was made by *S.M.SUBRAMANIAM, J.*)

The Writ of Mandamus in W.P.No.35199 of 2024 has been instituted to demolish the building illegally constructed in the disputed land admeasuring an extent of 1.05 Acres comprised in R.S.No.138/2B and R.S.No.138/2, Kolathur Village.

2. The Writ Petition in W.P.No.13182 of 2024 on hand has been instituted seeking direction not to undertake any illegal construction activities by the respondent 1 to 6 in the disputed land admeasuring an extent of 1.05



W.P.Nos.35199 & 13182 of 2024

Acres comprised in R.S.No.138/2B, Kolathur Village.

WEB COPY

3. The present litigation suffered several previous litigations. The facts in nutshell to be considered for the purpose of deciding the present Writ Petitions are that;

3.1. The issue arose when pattas were fraudulently obtained by six individuals based on forged documents. Upon discovery of the fraud, the District Collector, Chennai in proceedings No. J4/49003/90, canceled the pattas and ordered the restoration of lands in Old S. No. 6/8,60/4,85/5,89/1,138/2B & 89/2 of Kolathur Village to the original register viz., Circar Anadheenam. Subsequently, a suit was filed by the Plaintiff/Petitioner in O.S. No. 528 of 2000 before the XIV Assistant Judge, City Civil Court, Chennai claiming ownership over 1.05 acres in Survey No.138/2B, Koalthur Village. The Trial Court dismissed the suit.

3.2. Meanwhile, a separate suit in C.S. No. 403 of 2013 was filed by Arulmigu Somanatha Swami Temple, seeking a declaration that the entire suit property in Survey No. 138/2, measuring 5 acres and 63 cents, belongs to the temple. Additionally, the matter in O.S. No. 528 of 2000 was taken in Appeal in



W.P.Nos.35199 & 13182 of 2024

A.S. No. 122 of 2011 before the XVII Additional Judge in charge of XVIII

WEB COURT

Additional Court. The Appellate court set aside the Trial Court's dismissal and granted a decree in favour of the plaintiff/petitioner. After which, on 02.07.2021, the Commissioner, Chennai Corporation advised the District Collector, Chennai, to grant enter upon permission for construction of a Micro Composting Centre in the subject land.

3.3. The 1st and 2nd Petitioners filed W.P. No.15507 of 2021 before this Court, seeking removal of sheds, equipments and solid waste from the disputed land and the same was allowed. On 09.05.2022, the Revenue Department, through proceedings Na.Ka.No. J2/29426/2021, allotted the land in question to CMDA and gave enter upon permission to construct Modern Market Complex. Meanwhile, the District Collector, Chennai, filed Review Application No. 166 of 2021 against the A.S.No.122 of 2011, contending that there was no subdivision of Survey No. 138/2B. Upon review, the High Court, in its order dated 04.08.2022, set aside the judgment and decree obtained in A.S. No. 122 of 2011, declaring it to be nullity and non-est in the eye of law on the ground that, it was obtained by forgery and fabrication.

3.4. The decision in the Review Application was challenged in W.A.No.2170 of 2022 before the Division Bench of this Court and the same was



W.P.Nos.35199 & 13182 of 2024

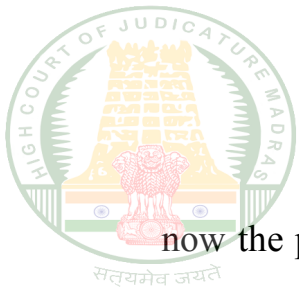
dismissed, reiterating the principle that fraud vitiates everything and affirming that decree in A.S. No. 122 of 2011 was a result of fraud.

3.5. Not satisfied with the order, the 1st and 2nd petitioners filed S.L.P. (C) No. 10503 of 2023, challenging the judgment in W.A. No. 2170 of 2022. The Supreme Court dismissed the SLP, thereby upholding the findings of the High Court.

3.6. On 13.02.2024, the CMDA issued a work order to the successful bidder (vide Letter No. SE-II/CW/DB/F.21099/2023) for carrying out construction of a modern market complex. However, planning clearance for the project was dismissed on 15.03.2024 vide Letter No. CMDA/CW/DB/DN.II/F.2024/2024. Subsequently, the Greater Chennai Corporation (GCC) issued building approval to CMDA vide CEBA/WDC/00558/2024 for constructing building using its own funds.

In the back drop, the present Writ Petitions have been instituted, seeking a directions as stated above.

4. Learned counsel for the petitioners would submit that the petitioners obtained the Ryotwari Patta, in respect of the subject property and

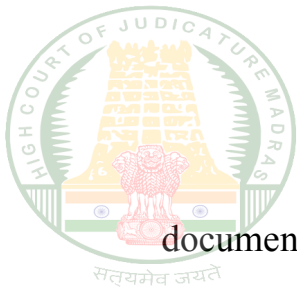


W.P.Nos.35199 & 13182 of 2024

WEB COPY

now the power of attorney Mr.K.M.Syed Khalifa is authorized to deal with the subject property of the petitioners 1 and 2. However, the title and ownership of the petitioners were disputed by the respondents, mainly on the ground that, the Government revenue records were forged and the vendor to the petitioners had taken illegal possession of the Government property, which was classified as “Government manai”. Initially the subject property was classified as “Anadheenam”. Therefore, it is a classic case, where private individuals have taken the public property for personal gain in an illegal manner by forging the revenue records. The petitioners were however not allowed to take possession, since the Government has commenced construction of a Modern Market in the subject property for the benefit of the public at large.

5. This Court has considered the findings made by the learned Single Judge in the final order dated 04.08.2022 passed in Review Application No.166 of 2021. The learned Single Judge, though issued a direction to consider the representation in the Writ Petition, originally the District Collector filed a review petition and brought to the notice of this Court about several illegalities committed by the Writ Petitioners in collusion with other persons for creation of bogus documents to take possession of the Government property. The findings of the learned Single Judge in the Review Order reveals that all the revenue



documents were verified in entirety produced by the District Collector Chennai

WEB COPY District and the following findings would be relevant and extracted herein under,

“

22. This Court will now deal with the issues that were formulated. This Court cannot shut its eyes in a case where the document, on the face of it, is found to be fabricated and fraudulent only on the ground that the Civil Court has not rendered any findings on the genuineness of the document and had relied upon it and decreed the suit in favour of the petitioners. The entire concept of Writ jurisdiction exercised is founded on equity and fairness. This Court can never allow perpetration of an illegality merely on technicalities. This is not a case where there is a private dispute between the parties and the genuineness of a document relied upon by the parties is put to scrutiny in the Writ proceedings. This is a case where the property belonging to the Government and which was categorised as Anadheenam, is sought to be knocked off by producing a fabricated order as if it was passed by the Assistant Settlement Officer, through proceedings dated 15.4.1976.



WEB COPY



W.P.Nos.35199 & 13182 of 2024

This Court has already dealt with the original (genuine) order and the order that was marked as Exhibit A4 and found Exhibit A4 to be a forged and fabricated document. This document was the basis for the vendor of the petitioners to claim a right over the subject property as if ryotwari patta was granted in his favour. In the absence of this order, no right will enure in favour of the vendor of the petitioners. In fact, it was cancelled by the Collector only on the ground that it was found to be a fraudulent and fictitious document. Instead of focusing on this important issue, unfortunately, the Civil Courts misdirected themselves and focused on the power and jurisdiction of the Collector to cancel the patta. The Civil Courts did not appreciate the fact that the cancellation was done not on considering the right of the parties but on the only ground that the document relied upon was a fraudulent one.

.....

25.The other submission made by the learned Senior Counsel to the effect that the others who got the ryotwari patta along with the vendor of the petitioners are still dealing with those properties, is equally untenable since there cannot be equality in illegality. Infact, the



WEB COPY



W.P.Nos.35199 & 13182 of 2024

District Collector must take immediate steps to take over those lands also.

26. In view of the above, this Court holds that even where a competent Civil Court has granted a decree in favour of the petitioners and there was no finding to the effect that the order dated 15.4.1976 is a fabricated and forged document and this decree has become final, this Court can go into the issue of genuineness of the order dated 15.4.1976 in collateral proceedings under Article 226 of the Constitution of India, since it was a fraud played on the Court by using a forged order. This Court also holds that this Court in exercise of its jurisdiction under Article 226 of the Constitution of India can nullify the judgment and decree passed by a competent Civil Court if it has been obtained by playing fraud on the Court and such a decree is a nullity and non-est in the eye of law.

27. In the result, the Order passed in W.P.No.15507 of 2021, dated 21.9.2021 is hereby set aside. The judgment and decree passed in A.S.No.122 of 2011, dated 3.1.2013 is declared to be a nullity and non-est in the eye of law. There shall also be a further direction to the District Collector to immediately initiate proceedings against 4



WEB COPY



W.P.Nos.35199 & 13182 of 2024

other persons who had utilised the forged and fabricated order dated 15.4.1976 and dealt with the properties in Survey Nos: 6/8, 60/4, 88/5 and 89/1. This Review Petition is accordingly allowed. There shall be no order as to costs.”

6. The Review order was taken by way of an Appeal in W.A.No.2130 of 2022. The Division Bench passed an order dated 13.04.2023, confirmed the order of the learned Single Judge passed in Review Petition. The relevant findings made in the Division Bench order reads as under,

“

11. We are completely in an agreement with the Learned Single Judge, firstly that Ex.A-3 'A' register produced by the appellants in the suit is a manipulated and forged document. It is not necessary for any crossexamination or extensive trial in that regard as the said document speaks for itself. While the name of Rathinavelu, the predecessor in title is found in Column No.11, Column No.12, stands unaltered as "Anadheenam". "Anadheenam" means a land which is not standing in the name of any person. Therefore, if in the previous Column



WEB COPY



W.P.Nos.35199 & 13182 of 2024

if the name of Rathinavelu is officially entered, as a natural corollary Column No.12 would have also been altered as the relevant use, namely, Punja or Nanja or House site, belonging to the said Rathinavelu. Therefore, the contention of the Learned Counsel for the appellants is that no opportunity was given to them in determining the issue is totally without any merits and on the face of it Ex.A-3 'A' register, is forged and manipulated document. Further, no equivalent records for the entry of the name of Rathinavelu, is also found or produced before this Court. The Collector, in his earliest order, has categorically mentioned that there are no equivalent proceedings or files to enter the name of the said Rathinavelu. While this being the position in respect of Ex.A-3, Ex.A-4, is again a bogus document on the face of it as clearly noted down by the Learned Single Judge and the original files have also been produced before us. We can see that the orders referred in the document, namely, the orders dated 24.07.1975 and 17.07.1975 absolutely relate to some other persons and property, and thus, Ex.A-4, is also a fictitious document. Therefore, no further trial or opportunity is necessary to come to such a conclusion. It is also strange that when the



WEB COPY



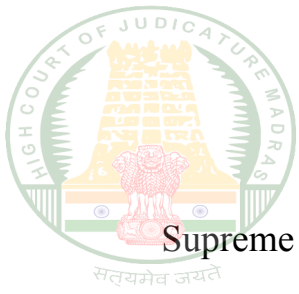
W.P.Nos.35199 & 13182 of 2024

title is claimed to the vendor of the appellants through Ryotwari Patta granted under the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948, at the same stretch, it is also claimed that a regular Patta in Ex.A-2, is also issued in the name of the father of the said Rathinavelu. Therefore, the case smacks falsity by itself.”

7. The Division Bench of this Court independently scrutinized the original revenue records produced by the District Collector, Chennai, along with the documents produced by the petitioner. The findings of the Division Bench in the Writ Appeal order would reveal that all the revenue records relating to the allegation of forgery has been verified and the order of the learned Single Judge passed in the Review Application was confirmed, including the findings of the learned Single Judge that the decree granted by the Civil Court is null and void.

8. When the Writ Court as well as the Writ Appellate Court independently considered the issues on merits and based on the facts, and scrutinized the original revenue records and made a findings that the petitioners have forged the revenue document and made an attempt to squat upon the Government property, there is no reason to consider the present Writ Petitions.

9. The order of the Division Bench was confirmed by the Hon'ble



W.P.Nos.35199 & 13182 of 2024

Supreme Court of India in S.L.P.(C)No.10503 of 2023 on 05.02.2024.

WEB COPY

10. That apart, learned Senior Counsel appearing on behalf of the 6th respondent would submit that a criminal complaint was registered against the perpetrators of trial in Crime No.266 of 2022 under Sections 420, 465, 467, 468, 471 r/w 120(B) IPC on the file of the Central Crime Branch, Chennai and the investigation is in progress. Further submitted that all further actions are initiated to prosecute the offenders in the manner known to law.

11. Pursuant to the Interim order passed in the present Writ Petition, the Government authorities are not in a position to continue the construction activities of Modern Market for the benefit of the people residing in and around Chennai. Public projects cannot be stalled based on certain vexatious claim. The claim of the petitioners are found to be untenable by the Writ Court and the Writ Appellate Court, and more specifically the Civil Court decree obtained based on such bogus documents were also declared as null and void by the learned Single Judge and confirmed by the Division Bench and the Apex Court of India.

12. Learned counsel for the petitioners made a submission that the Modern Market is being constructed without obtaining building plan



W.P.Nos.35199 & 13182 of 2024

permission. In this regard, the Member Secretary, Chennai Metropolitan

WEB DEVELOPMENT Authority in his counter stated as under,

“10.It is further submitted that subsequently on 15.09.2023 an e-Tender, in Tender Notice No.3/2023-24, was issued by this respondent for the development of the Market. Subsequently, during this Authority Meeting held on 22.01.2024, in A.R.No.15/2024, it was resolved to accept the tender submitted by the L1 bidder, M/s.Vivek Vijay and Co., The Work Order was issued to the successful bidder on 13.02.2024. On 15.03.2024 the Executive Engineer, Division II, Construction Wing of this respondent submitted an application to this respondent seeking for Planning Clearance for the construction of the Modern Market. The site was handed over to the Contractor. The Contractor started preliminary works like site clearance, test piling, construction of temporary labour shed, erection of machineries etc.,

11. It is further submitted that the Planning Clearance Application dated 15.03.2024 was duly considered and Planning Clearance was issued by this respondent on 07.08.2024 in Planning Clearance No.CMDA/PC/01/A to D/2024. Following which the 5th respondent granted the Building Permit on 16.08.2024. In view of the above stated facts, the averments of the petitioners that the present construction is without permission, sanction or approval is incorrect and misleading.”



WEB COPY

13. The Commissioner, Chennai Corporation also filed a counter affidavit in support of the said contentions, which is found in para 11 and reads as follows,

“11. I respectfully submit that the Chennai Metropolitan Development Authority viz., the 6th respondent herein has floated an E-Tender vide Short E-Tender Notice No.3/2023-24 dated 15.09.2023 for construction of the Modern Market Complex at Papermills Road, Perambur, Chennai and tender was opened on 04.10.2023. I further submit that, the 6th respondent CMDA herein has issued Work Order to the successful bidder vide Letter No.SE-II/CW/DB/F.2109G/2023 dated 13.02.2024 to construct a Modern Market Complex at a cost of Rs. 19,30,20,992/- (Rupees Nineteen Crores Thirty Lakhs Twenty Thousand Nine Hundred and Ninety Two Only) the 6th respondent herein has accorded planning clearance for construction of Modern Market consisting of basement floor (parking) + ground floor + 2 floors (commercial shops) vide Letter No.CMDA/CW/DB/DN.II/F.2024/2024, dated 15.03.2024, subsequently Planning Clearance was issued by the CMDA viz., the 6th respondent herein vide No.CMDA/PC/01/A to D/2024 dated 07.08.2024 and based on that the Greater Chennai Corporation has issued Building Approval in CEBA/WDCN06/00558/2024, dated 16.08.2024. Further the building in question is being



W.P.Nos.35199 & 13182 of 2024

constructed by the 6th respondent herein under their own funds.”

WEB COPY

14. In view of the above factum established, this Court could arrive an irresistible conclusion that the petitioners have not established even a semblance of legal right, so as to entertain their claim and therefore, the Writ Petitions are devoid of merits. Accordingly, the Writ Petitions stand dismissed. Consequently, the connected Miscellaneous Petitions, if any, are closed. No costs.

[S.M.S., J.] [K.R.S., J.]
05.02.2025

Index: Yes/No
Speaking/Non-speaking order
gd

To

1. The Government of Tamil Nadu,
represented by its Principal Secretary,
Revenue Department,
Fort St. George,
Chennai – 600 009.
2. The Special Commissioner and
The Commissioner of Land Administration,
Chepauk, Chennai – 600 005.
3. The Collector of Chennai,
Chennai District,
Singaravelar Maligai, Rajaji Salai,
Chennai – 600 001.
4. The Thasildhar,
Ayanavaram Taluk, (Opposite Ayanavaram Water Tank),
No.1, Palli Arasan Street,
New Avadi Road, Ayanavaram,
Chennai – 600 023.



W.P.Nos.35199 & 13182 of 2024

5. The Corporation of Chennai,
Rep by its Commissioner,
Ripon Buildings, Chennai – 600 003.

6. Chennai Metropolitan Development Authority,
Thalamuthu – Natarajan Maaligai,
No.1, Gandhi Irwin Road,
Egmore, Chennai – 600 008.

7. The Zonal Executive Engineer,
(Zone-VI), GCC,
No.5, Anderson Road,
Ayanavaram, Chennai – 600 023.

8. Arulmigu Somanatha Swami Temple,
rep by its Executive Officer,
Kolathur, Chennai – 600 099.



WEB COPY



W.P.Nos.35199 & 13182 of 2024

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

gd

W.P.Nos.35199 & 13182 of 2024

05.02.2025

2/2