

- (8) Respondents 1 and 2 shall also give immediate directions to protect all such buildings/places in the entire State of Tamil Nadu, wherever they may be, e.g., the 150 year old 'Kudhirai Vandi Court' in Coimbatore, the first ever Court of Coimbatore has become the home of anti-social elements because of disuse and heritage conservationists are anguished by its present condition.
- (9) We record our deep appreciation of the excellent report prepared by Justice B. Padmanabhan, J. and the members of the said Committee. If the heritage buildings of Chennai are saved from demolition it will be both because of the untiring efforts of the petitioner and the report mentioned above. The petitioner may ensure that the notices referred to above are sent without any delay.
- (10) The State Government has also responded by forming the Committee without further delay.

There shall be no order as to costs. Consequently, M.P. No.1 of 2009 is closed.

Sd/  
Asst.Registrar

/true copy/

*[Handwritten Signature]*  
Sub Asst.Registrar

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To

- 1. The Chennai Metropolitan Development Authority,  
Thalamuthu Natarajan Maligai,  
No.8, Gandhi Irwin Road,  
Egmore, Chennai-8.
- 2. The Commissioner,  
Corporation of Chennai,  
Ripon Buildings, Chennai-3.
- 3. Life Insurance Corporation of India,  
Southern Zonal Office, LIC Building,  
102, Anna Salai, Chennai-2.

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*[Small stamp]*



value and the feasibility of retaining the Bharath Insurance Building. As far as possible, the building must be saved. Respondents 1 and 2, with the consultation of the Heritage Conservation Committee, shall issue directions for protection of the building in question from complete demolition or save as much part of it as possible. This decision may be taken within three months from the date of receipt of a copy of this order.

(3) If the Heritage Conservation Committee feels that it will not be possible to retain whole of the building, then efforts should be taken at least to retain the turrets/domes, the stone pillars and to restore the plaster and terracotta motifs, as suggested by the Committee which had inspected the building on 27.10.2009.

(4) The Bharath Insurance Building is spread over an extent of 1172.17 sq.mts., as seen from the report submitted by Mr. A. Sivasankaran. The third respondent wants to demolish the building and utilise the land for locating its branch office. Therefore, the Heritage Conservation Committee can also explore the retention of the first hall and development of the remaining portion of the land, as the third respondent desires. However, the primary object should be to retain the whole of the heritage building or as much a part of it as possible, keeping in mind the observations of the experts regarding the condition of the building.

(5) The Heritage Conservation Committee shall recommend to the Government to take steps to notify buildings listed by it as heritage buildings and within a period of three months, cause notices to be issued to the concerned, especially the private owners, in respect of the buildings listed in the report filed by the Committee headed by Justice E. Padmanabhan so that there is no threat of demolition or destruction or alteration to such buildings, thereby diminishing their heritage value, without the permission of the Heritage Conservation Committee.

(6) As the next step, the Government may take up the job of listing such of those buildings enumerated under Grade-2a and Grade-2b in the report filed by the Committee headed by Justice E. Padmanabhan, after getting the opinion of the Heritage Conservation Committee regarding the desirability of notifying such buildings as heritage buildings.

(7) The Heritage Conservation Committee shall also assess and may give directions as to how the buildings mentioned in the report filed by the Committee headed by Justice E. Padmanabhan may be conserved or may even be identified as places of tourist importance, so that both the residents of Chennai, as also other visitors, become aware of the heritage.



Committee, but the Committee shall send notices to the private owners in the cases of all buildings which are close to a hundred years old and are, therefore, buildings of heritage value.

In the second report prepared as per the directions issued by this Court on 15.12.2009, there are recommendations as to how the building in question can be renovated and from where funds could be obtained. The said recommendations which have been extracted above are reiterated here :-

**Cost of Restoration :**

i) A detailed study must be done to give an accurate estimate of restoration costs.

ii) Costing can also be done only if modern amenities that are required are clearly specified.

**Funding support for restoration :**

a) As a public limited company of the Government of India, LIC would be able to raise funds for restoration from within.

b) Funding for heritage buildings is also available under JNHURM.

c) Funding for heritage buildings is also available from Ministry of Culture.

**Future :**

i) The unstable areas of the building are only due to careless demolition and neglect. It is imperative that the structure is protected from further deterioration from the elements and also properly propped and supported.

ii) It is also imperative that materials removed from building and at site be carefully kept pending restoration.

iii) Unauthorised entry must be prevented so that no pilferage takes place.

iv) The entire premises needs to be cleaned and spruced. All unwanted plants and bushes (only outside the building) must be removed carefully without any damage to the building.

In the light of our consideration of the various reports, the regulations and also the judgments of the Supreme Court, we allow the writ petition with the following directions :-

- (1) The third respondent-LIC is restrained from demolishing the Bharath Insurance Building without complying with Regulation 22 of the Development Control Rules for Chennai Metropolitan Area, 2004.
- (2) The Heritage Conservation Committee shall assess the

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public importance in this ancient city of Chennai.

24. The Committee has chosen historic and commercial/institutional buildings of socio-cultural and aesthetic value. The Committee has collected information for enumeration of such buildings from various Government Departments, including the Archaeological Survey of India, the Hindu Religious and Charitable Endowments Department, the Wakf Board and other such religious organisations. The Committee has also used the INTACH files as a source of information and has assigned grades to buildings/places according to their level of importance. The buildings/places coming under Grade-1 are characterised by their excellence in architectural style, design, technology and material usage and/or aesthetics and they may be associated with a great historic event, personality or movement or institution. Similarly, the Committee has graded buildings as Grade-2a and Grade-2b. The total number of buildings/places enumerated by the Committee is 467. They may include buildings or structures within the same complex, as for instance Sl. Nos. 3 to 19, which are buildings located within the Fort Saint George complex. The report has also included temples, mosques and churches.

25. We recommend to the Heritage Conservation Committee to issue notices in respect of all the buildings shown under Sl. Nos. 1 to 467 in the report filed by the Committee headed by Justice E. Padmanabhan. The notice may be issued either separately for each building, or jointly, as in the case of buildings located within the same complex, indicating that that particular building is a heritage building. Priority may be given to those buildings which belong to private owners (individuals, Trusts, Corporations, etc.) so that there are no attempts on their part, to alter or renovate or demolish such 'listed buildings' without consultation or prior permission of the Heritage Conservation Committee. The Heritage Conservation Committee shall take steps to publicly notify these structures as buildings/places of heritage value or assign whatever nomenclature the Committee deems it fit. It is relevant to note that the Bharath Insurance Building, which is the building in question, is graded as Grade-1. Rule 22 of the Development Control Rules for Chennai Metropolitan Area, 2004 shall be strictly enforced with regard to the buildings so listed.

26. We would have enumerated all the buildings/places listed in the report filed by the Committee headed by Justice E. Padmanabhan as a Schedule to this judgment but for the fact that some of items listed even under Group-1 are really not buildings, e.g., the Guindy National Park, and some are buildings not having any heritage value, but are buildings of importance, e.g., the Kamarajar Kalai Arangam, which has been included because it is one of the largest auditoriums in the city, even though it has been built only in the 1980s. Therefore, we leave it to the decision of the Heritage Conservation

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interest of ownership of property under Article 300A of the Constitution can be balanced. It is possible even for the owners of this heritage building to get economic mileage out of this building if they preserve and protect it as a place of tourist interest, which persons can visit.

21. After the constitution of the Heritage Conservation Committee, we find that the State is taking an earnest interest to protect heritage buildings in the State. So, we deem it appropriate to issue directions not only with regard to the building in question, but also in general.

22. In a batch of writ petitions relating to hoardings, viz. W.P. Nos. 7143 of 2006 etc. [Kanagara] vs. The District Collector, Chennai], by order dated 10.8.2006, the First Bench of this Court appointed a Committee headed by Justice B. Padmanabhan, Retired Judge of the Madras High Court to survey, identify and enumerate places of historical importance/aesthetic value/popular places of worship in and around the city of Chennai. The Committee under B. Padmanabhan J. As Chairperson consisted of the following members :

Mrs. K. Kalpana, Conservation Architect

Mr. S. Muthaiah, Historian

Mrs. R. Jaya, I.A.S., the then Collector of Chennai

Dr. A. Ananda Kumar, I.A.S., Deputy Commissioner, Corporation of Chennai

Mr. Sunil Kumar, I.P.S., Additional Commissioner of Police, Chennai

23. The report filed by the Committee is exhaustive, of a very high quality and shows the meticulous care and interest with which the Committee has compiled it. The Committee has, with a 'heavy heart', pointed out that "neither the public nor the administration nor the authorities are conscious of the value in maintaining the heritage buildings, places of historical importance or aesthetic value and popular places of worship, which is a disappointment. All of them will have to be educated and informed of the values of such historical and monumental buildings. Though certain voluntary organisations have taken up this issue at various levels, it is of little impact. The administration has to change its attitude in these aspects, by appropriate and stringent measures. That apart, the enforcing authorities should be made aware of the values heritage buildings bring to the cultural background of the State and strictly enforce the regulations." The members of the Committee were also "pained" to note that several heritage and ancient buildings have been brought down by the public as well as the authorities and this continued unabated. The Committee has urged the High Court to take note of the situation and to pass appropriate orders to save the heritage and monumental buildings and places of



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building) must be removed carefully without any damage to the building."

18. As far as the heritage buildings in this city and elsewhere in the State are concerned, we have already lost much because of the indiscriminate demolition in the name of development of buildings without any regard about the architectural values thereof. The UNESCO's Convention concerning the Protection of the World Cultural and National Heritage defines "cultural heritage" to include monuments, architectural works, works of monumental sculptures etc. Article 4 of the Convention requires every State party to ensure identification, protection, conservation, presentation, and transmission of the cultural heritage to future generations. It is relevant to note that the World Heritage Committee was also formed under this Convention.

19. Some times, in an enthusiastic effort "to clean up" temples or a heritage building, we have seen that the persons who undertake this effort do sand blasting which actually damages the quality of the pillars or the structures as such. Therefore, the Government shall issue rules to prevent persons from undertaking any repair even under the name of renovation of heritage buildings without seeking the necessary approval of the Heritage Conservation Committee whenever an ancient monument, whether it is a structure or erection of historic, archaeological or artistic value as described in the Tamil Nadu (25 of 1966). The CMHA must take the recommendation of the Committee for conserving the heritage buildings in the Chennai Metropolitan Area. The Government shall also enact rules so that such heritage buildings, wherever in the State, shall not be demolished except after obtaining the conditions similar to the ones provided for under the Development Control Rules.

20. A question was posed by the learned senior counsel for the third respondent, whether a building would become heritage building merely because it is hundred years old. For that, we can seek inspiration from the Tamil Nadu Act which is to the effect, "a building which has archaeological, artistic or historic value and is more than hundred years old". The Government may also think of defining heritage buildings and as far as possible listing them, so that the owners of the heritage buildings may know that the building in their occupation or possession or ownership is a heritage building and the Government may think of enacting provisions as in the Tamil Nadu Act, where an owner of a protected monument, before altering the it, obtains the permission from the Government, or if the Government decides to notify a monument as a protected monument or protected place, hears the objection of the owner. Similar provisions may be made with regard to the heritage buildings also, so that the public interest of protecting heritage and the private

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17. A report has been filed based on the inspection done on 27.10.2009 by Ms. Kalpana Ahmed and Ms. Tara Murali. On page 1 of the report, we find the exterior of the building which is infested with vegetation, but the interior of the building shows that the roof and the domes are of really artistic value. It is true that the floor is covered with water, perhaps because the window panes have been broken and rain water has come in. The report indicates that the condition of the structure shows no cracks indicating that there has been no damage to the foundation or other signs of distress. We have suggested that where the roots are found to have entered the walls, in view of the massive thickness of the masonry walls, they can be removed and set right. Some of the pictures, however, show that the floor slabs have collapsed and one can see from the top floor right into the bottom. As far as the exterior elements are concerned, the report is that the turrets/domes barring one are standing without any signs of damage and the stone pillars are in excellent condition. The plaster and terracotta motifs are capable of restoration, where required and the cast iron components can be replaced. Their opinion is that the vast building, with its large roomed interior, can be used for several current needs. They have given the following suggestions for restoration :-

#### "Cost of Restoration --

i) A detailed study must be done to give an accurate estimate of restoration costs.

ii) Costing can also be done only if modern amenities that are required are clearly specified.

Funding support for restoration --

a) As a public limited company of the Government of India, LIC would be able to raise funds for restoration from within.

b) Funding for heritage buildings is also available under JNNURM.

c) Funding for heritage buildings is also available from Ministry of Culture.

Protection and upkeep of building in the immediate future --

i) The unstable areas of the building are only due to careless demolition and neglect. It is imperative that the structure is protected from further deterioration from the elements and also properly propped and supported.

ii) It is also imperative that materials removed from building and atg site be carefully kept pending restoration.

iii) Unauthorised entry must be prevented so that no pilferage takes place.

iv) The entire premises needs to be cleaned and spruced. All unwanted plants and bushes (only outside the



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Regulations. However, in case of any conflict with the heritage preservation interest, the said Regulations shall prevail.

9. Repair Fund:— Buildings included in the said list shall be repaired by the owners/lessees of the said buildings themselves with a view to give monetary help for such repairs to a limited extent in deserving cases where the owner/lessee could not repair it, a separate fund may be created, which would be kept at the disposal of Member Secretary, Chennai Metropolitan Development Authority, who will make disbursement from the funds in consultation with Heritage Conservation Committee.

10. Grading of the Listed Buildings/Listed Precincts:— In the last column of the said list of Heritage buildings, Heritage precincts, "Grades" such as I, II or III have been indicated. The meaning of these Grades and basic guidelines for development permissions are as follows :

Listing does not prevent change of ownership or usage. However, such usage should be in harmony with the said listed precinct/buildings. Care will be taken to ensure that the development permission relating to these buildings is given without delay."

Rule 22 of the Development Control Rules for Chennai Metropolitan Area, 2004 reads thus :

"22. Preservation of buildings of historical or architectural interest :- (a) If a building or premises not covered under the Archaeological Monuments Act, in the opinion of the Authority is of historical or architectural interest and is in danger of demolition or alteration likely to affect its character by a development, the Authority may impose such conditions as it may deemed fit for the preservation of such building while granting planning permission."

As rightly pointed by the learned counsel for the petitioner, these rules were not in force when 2003 (4) C.T.C. 513 (supra) was decided. Now, these rules have not only come into force, the Government has also constituted a Heritage Conservation Committee. So the above decision will not bind us. We see no reason why we should allow the building to be demolished without at least an attempt on the part of the Committee to try to conserve as much of the heritage building, if not the entire heritage building.

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Provided that in case any alterations, modifications or relaxations of any of the provisions of the Development Regulations, will cause undue loss to the owners or persons who have development right over the Heritage Buildings/Heritage Precincts, the Member Secretary, Chennai Metropolitan Development Authority shall give an opportunity of hearing to the said owner or persons who have development right over the Heritage Buildings and to the public, before taking final decision in the matter.

6. Grant of Transferable Development Rights in cases of loss of Development Rights:-- If any application for development on a private land is refused under this Regulations or conditions are imposed while permitting such development therein which deprive the private owner/lessee who is not a Government or a quasi Governments department or agency or a religious institution or a trust a society, or a charitable institution etc., of any unconsumed FSI otherwise, the private owner/lessee could have availed considering the land use, road width, setback, etc., as per Development Regulations the said owner/lessee shall be compensated by grant of Development Rights Certificate as may be prescribed by Government from time to time, on transfer of the right to CMDA through a registered gift deed. The extent of TDR for which Certificate to be granted may be determined by the Member Secretary, Chennai Metropolitan Development Authority, if required in consultation with the Heritage Conservation Committee, and will not be awarded unless sanctioned by the Government.

7. Maintaining Sky Line:-- Buildings included in Listed Heritage Precincts shall maintain the sky line in the precincts (without any Multistoreyed development) as may be existing in the surrounding area, so as not to diminish or destroy the value and beauty of the said listed Heritage Buildings/Heritage precincts. The development within the precincts shall be accordance with the guidelines framed by Member Secretary, Chennai Metropolitan Development Authority in consultation with Heritage Conservation Committee.

8. Restrictive Covenants:-- Restrictions existing as on date of this notification imposed under covenants, terms and conditions on the leasehold plots whether by State Government or by Chennai Municipal Corporation or any other Government or quasi Government agency including Hindu Religious and Charitable Endowment Board, Wakf Board shall continue to be imposed in addition to Development

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religious codes shall be treated as permissible, subject to their being in accordance and consonance with the original structure and architecture; designs, aesthetics and other special feature thereof.

Provided that before arriving at his decision, the Member Secretary, Chennai Metropolitan Development Authority shall take into consideration the recommendations of the Heritage Conservation Committee.

3. Preparation of list of Heritage Buildings and Heritage Precincts:-- The list of buildings, artefacts, structures and precincts of historic, and/or aesthetical and/or cultural value etc. to which these regulations apply shall be notified by the Government after its approval on its merits with or without modifications.

The draft list of buildings, artefacts, etc. to which these regulation shall apply shall be prepared by the authority in consultation with the Heritage Conservation Committee and also addressing the owners of the said listed building/precincts giving an opportunity to represent regarding the proposed notifications and further notifying in newspapers inviting objections/suggestions from the general public, and it shall be forwarded to Government. The Government may accord approval for the said list with or without modifications as may be decided on its merits and notify the same in Tamil Nadu Government Gazette, and also in local newspapers.

This list may be supplemented, altered, deleted, or modified from time to time by the Government on receipt of the proposals from the Authority or suo motu by the Government after following the procedures of giving opportunity to the owners/lessees and also the general public stated above after notification in the Tamil Nadu Government Gazette.

4. Power to Alter, Modify or Relax Regulations:-- With the approval of Government and after consultation with the said Heritage Conservation Committee, the Member Secretary, Chennai Metropolitan Development Authority shall have the power to alter, modify or relax the provisions of other Regulations of the Development Regulations of Chennai Metropolitan Area (hereinafter referred to as "the said Regulations") if it is needed for the conservation, preservation or retention of historical, aesthetical, cultural or architectural quality of any listed Buildings/Heritage Buildings or listed precincts/Heritage Precincts.

5. Hearing etc. to persons likely to be affected:--

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16. In the Second Master Plan for Chennai which came into force on September 2, 2008, there are special rules for conservation heritage buildings :-

ANNEXURE XXV

[DR No. 31]

Special Rules for conservation of Heritage Buildings

1. This regulation will apply to those buildings, artefacts, structures, and/or precincts of historical and/or aesthetical and/or architectural and/or cultural value (hereinafter referred to as Listed Buildings/Heritage Buildings and Listed precincts/Heritage precincts) which will be listed in notification(s) to be issued by the Government and will not apply to those which have been covered in the notification of Central or State Archaeological Department under their Act/Rules.

2. Restriction on Development/Redevelopment/Repairs, etc.:-

(i) No development or redevelopment or engineering operation or additions, alterations, repairs, renovations including the painting of buildings, replacement of special features or demolition of the whole or any part thereof or plastering of said listed/heritage buildings or listed/heritage precincts shall be carried out except with the prior written permission of the Member Secretary, Chennai Metropolitan Development Authority. The Member Secretary, Chennai Metropolitan Development Authority shall in consultation with the Heritage Conservation Committee to be appointed by Government (hereinafter called the said Heritage Conservation Committee).

Provided that in exceptional cases for reasons to be recorded in writing the Member Secretary, Chennai Metropolitan Development Authority may over rule the recommendation of the Heritage Conservation Committee.

Provided that the powers to over rule the recommendation of the Heritage Conservation Committee shall not be delegated by the Member Secretary, Chennai Metropolitan Development Authority or any other officer.

(ii) In relation to religious buildings in the said list, the changes, repairs, additions, alterations and renovations required on religious grounds mentioned in sacred texts, or as a part of holy practices laid down in

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3. The large vegetarian growths seen all round the building shall be effectively removed and care shall be taken to prevent regrowth of such plants.

4. The repairs in the ornamental dome structure located on the terrace of the building shall be carried out immediately failing which such arrangements are likely to dislodge and fall even with the slightest disturbance.

5. The first floor corridor and its roof located on the east side (facing General Patters Road) are in dilapidated condition and, in fact, a major portion of the same has already collapsed. This corridor and its roof are to be restored to match its original appearance.

6. The teak wood joists of the Madras terrace roof are found to be in sagged condition due to he entry of moisture from the roof. The Madras terrace roof shall be repaired wherever there are cracks. The weathering course may be relaid with proper gradient, as to prevent entry of moisture through the terrace. The worn out tarfelt sheets may be replaced afresh. The clogged rain water downfall pipes and spouts are to be cleaned and maintained in good condition.

7. The large cracks seen in the masonry walls such as in library and reading room etc. and over the arch openings are to be treated suitably.

8. The lime plastering of inside faces of the masonry walls are found to be damaged and peled off due to ageing in many locations. Such damaged plasterings are to be thoroughly scrapped and re-plastered in conformity with the original condition.

9. The doors, windows, roof and floor timbers are to be painted after thoroughly scrapping the old painting."

The Committee appointed by the High Court had also given the following suggestions to restore the building and in the interest of safety :-

1. Suitable horizontal bracing shall be given to the pillars in the north-west corridor (facing Anna Salai) at first floor level.

2. The debris of the demolished Madras terrace roof in this region which has accumulated on the first floor passage should be removed carefully, to reduce the load.

3. The fallen minarets should be taken aside and preserved for possible reuse during restoration."

It is indeed unfortunate that though as early as in 1999, the third respondent knew that further deterioration of the building had to be arrested, they just allowed the building to deteriorate and are now citing the deterioration for demolishing the building.



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combination of the features of Hindu, Islamic and Western elements. This itself is in a sense a record of our history. Nothing more is required to show its heritage value; because it records our rich past.

13. The reports filed by the third respondent declare in one voice that it would be uneconomical to restore the Bharath Insurance Building and retain the same and that in the present stage, it is completely unhygienic and not fit for entry (vide report of Mr. C.H. Gopinatha Rao). According to the report filed by Prof. A.R. Senthakumar, the building is completely dilapidated; the brick work has lost its bearing capacity and the masonry is crumbling and therefore, the building should be scientifically and immediately demolished. He has taken samples and according to him, wooden samples show manifestation of termites; the mortar samples show that there is no calcium content; and the brick samples show that the adhesion between mortar and brick is nearly zero. In the report filed by Mr. A. Sivasankaran, it is stated that due to the efflux of time, the weathering action and the efflorescence of saline action, the extended cantilever portion of the building has fallen down and there are large wide vegetation growth across the building and construction of a new building would facilitate earning rental revenue.

14. At the same time, even in Mr. C.H. Gopinatha Rao's report, we find that he has observed, "the only merit for considering this building as a heritage building is the aesthetic design of the elements". So, even according to the report filed by the expert chosen by the Life Insurance Corporation, the building has heritage value.

15. From the typed set of papers, we see that the third respondent had issued letters to tenants asking them to vacate since they had already obtained permission for demolition of the building. On 27.8.1999, the Superintending Engineer, Planning and Designs Circle, Public Works Department had addressed a letter to the third respondent after inspection of the building. He had given even on that date, the details of the repairs to be immediately undertaken to safeguard the building from further deterioration. The suggestions are :-

1. The lime mortar used in the masonry walls is found to have lost its binding property due to ageing and also due to exposure to adverse weather conditions. The lime mortar shall thoroughly scrapped to the required depth and the joints are to be painted with fresh mortar.

2. The bricks of the masonry walls are also found to be weathered in some places in the external locations and that same may be replaced with new bricks.

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and the doing of any act which may be necessary for the purpose of preserving a protected monument or of securing convenient access thereto;

(h) 'Owner' includes -

(i) a joint owner invested with powers of management on behalf of himself and other joint owners and the successor-in-office of any such owner; and

(ii) any manager or trustee exercising power of management and the successor-in-office of any such manager or trustee;

(i) 'protected area' means any archaeological site and remains which is declared to be a protected area under this Act;

(j) 'protected monument' means any ancient monument which is declared to be a protected monument under this Act."

According to the learned counsel for the petitioner, this Act defines "ancient monument" quite widely and therefore, nothing could prevent this Court from invoking the provisions of that Act to protect this building. According to the learned senior counsel, that would really relate to archaeological excavations and preservations of ancient and historical monuments, this building is neither. The description of ancient monument includes "any structure which has been in existence for not less than 100 years". There should be "historical, archaeological or artistic interest". It is an inclusive definition as seen from the above. According to the learned senior counsel appearing for the third respondent, the building has no archaeological value nor historical value since no historical event took place and there is no historical connection to the building. But we are not quite sure if we can rule out the possibility of including it as a structure of artistic interest.

11. In the city of Chennai especially, many of the historic buildings belong to the genre of Indo-Saracenic Architecture, including our High Court and therefore, perhaps a hundred years ago, the city skyline was dotted with impressive grand buildings that have the same character, namely the Indo-Saracenic character. There is no dispute that the building in question is more than a hundred years old. The Madras University, the National Gallery, the General Museum, the Senate House, the Chennai Central and the Egmore Railway Stations and some Government Offices like the Public Works Department and Ezhilagam housed in historic buildings, are examples of other buildings. They are characterised by the Hindu and Mughal elements of Gothic Arches, Domes and Minarets. These buildings were developed by the British architects like Chisholm.

12. The Indo-Saracenic architecture is described as

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an ancient monument as may be required for fencing or covering in or otherwise preserving such monument,

(iv) the gardens, if any, appurtenant to an ancient monument, and

(v) the means of access to, and convenient inspection of an ancient monument; but does not include any ancient or Historical monument declared by or under law made by Parliament to be of national importance;

(b) 'antiquity' includes--

(i) any coin, sculpture, manuscript, epigraph, or other work of art or craftsmanship,

(ii) any article, object or thing detached from a building or cave,

(iii) any article, object or thing illustrative of science, art, crafts, literature, religion, customs, morals or politics in bygone ages,

(iv) any article, object or things of Historical interest, and

(v) any article, object or things declared by the Government, by notification to be an antiquity for the purposes of this Act,

which has been in existence for not less than one hundred years;

(c) 'archaeological officer' means any officer appointed by the Government, by notification, to be an archaeological officer for the purpose of this Act for such area as may be specified in the notification;

(d) 'archaeological site and remains' means any area which contains or is reasonably believed to contain ruins or relics of Historical or archaeological importance which have been in existence for not less than one hundred years, and include -

(i) such portion of land adjoining the area as may be required for fencing or covering in or otherwise preserving it, and

(ii) the means of access to, and convenience inspection of, the area; but does not include any archaeological site or remains declared by or under law made by Parliament to be of national importance;

(e) 'Director' means the Director of Archaeology and includes any officer authorised by the Government, by notification, to exercise the powers conferred on, and discharge the duties imposed upon, the Director under this Act;

(f) 'Government' means the State Government;

(g) 'maintain' with its grammatical variations and cognate expressions includes the fencing covering in, repairing, restoring and cleaning of a protected monument;

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all recommended demolition after inspection of the building after going into the details with regard to each and every aspect of the building, including the beams, the joists, the brick walls etc. The learned senior counsel submitted, therefore, their report definitely deserves more weight than the report filed by the petitioner. Learned senior counsel submitted that demolition permission had been obtained as early as on 4.11.2004, but they have been prevented from demolishing the building for nearly six years thereafter. He produced the Concept Draft of the proposed building, which according to him, will be grant, economically viable and along the same lines as the existing building and therefore, will satisfy both the economic objectives as well as the aesthetic objectives. Learned senior counsel submitted that the decision of this Court in 2003 (4) C.T.C. 513 (supra) is a case where the same petitioner had filed the writ petition and sought for restraint of demolition of the building known as Madras Club House. The same points were raised there too, viz. that it is a heritage building and cannot be demolished. The Division Bench went into the issue and held that the owner of a building cannot be restrained from exercising her rights over her property and it would amount to deprivation of her rights under Article 300A of the Constitution of India. It was also submitted that when there is no law relating to heritage buildings, the Court cannot be used to direct statutory authorities to do something which has no sanction of law and therefore, no mandamus can be issued as sought for in the present case.

9. We have seen the photographs, the various reports in this regard and also the provisions of law.

10. The Tamil Nadu Ancient and Historical Monuments and Archaeological Sites and Remains Act (25 of 1956) was enacted to provide for the preservation of ancient and historical monuments and archaeological sites and remains other than those of national importance, for the regulation of archaeological excavations and for the protection of sculptures, carvings and other like objects. Section 2 of the said Act reads thus :-

"S. 2. Definitions.-- In this Act, unless the context otherwise requires, --

(a) 'Ancient monument' means any structure, erection or monument or any tumulus or place of interment, or any cave, rock-sculpture; inscription or menolith, which is of historical archaeological, or artistic interest and which has been in existence for not less than one hundred years and includes -

- (i) the remains of an ancient monument,
- (ii) the site of an ancient monument,
- (iii) such portion of land adjoining the site of

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bound to act reasonably without arbitrariness. He further submitted that when the third respondent had taken part in the meeting with CMDA and the Heritage characteristic of the building had been acknowledged, it is not now open to the third respondent to raise from the position and insist on demolition. He submitted that respondents may rely on 2003 (4) E.T.C. 513 [Indian National Trust for Art and Cultural Heritage (INTACH) vs. Chennai Metropolitan Development Authority], but on facts, there are several distinguishing features and that cannot be relied on for demolishing this building. He also referred to the Convention concerning the Protection of the World Cultural and National Heritage of the United Nations Educational, Scientific and Cultural Organisation (UNESCO). He referred to a news item where the Union Minister had promised that the Bharath Insurance Building will not be pulled down. Learned counsel referred to Rule 22 of the Development Control Rules for Chennai Metropolitan Area, 2004 which provided that if a building or premises is not covered under the Archaeological Monuments Act, but still, in the opinion of the Authority, is of historical or archaeological interest and is in danger of demolition or alteration likely to affect its character by a development, the Authority may impose such conditions as are necessary for the preservation of the said building.

Mr. A.L. Somayaji, learned senior counsel appearing on behalf of the third respondent submitted that the Life Insurance Corporation is bound by Section 6 of the Life Insurance Corporation Act, 1956 to carry on its business in a manner that renders the business profitable. The funds are public funds. The Corporation is accountable to the public. According to the learned senior counsel, the building in question is sadly dilapidated and is in a state of imminent danger of falling down. Learned senior counsel also submitted that there is no historical value attached to the building. It has always been used for commercial purposes. Learned senior counsel submitted that the Rajiv Mankotia's case cited cannot be applied to the present case. That was the viceregal Lodge where several historic events had taken place and that is not so in the instant building. Learned senior counsel referred in detail to the various reports by the experts who had been engaged by them and have all testified to the fact that the building had become obsolescent economically and that there would be no prudence in retaining the building. The learned senior counsel submitted that the experts who had given their report to save the building had actually examined the building and they were not civil engineers; they were only architects. Whereas, these three experts who had been engaged by the third respondent, viz., C.H. Gopinatha, Former National President, Institution of Valuers; Prof. Santhakumar, Emeritus Professor & Dean of Civil Engineering; and A. Sivasankaran, Former Chairman, Institution of Engineers are highly competent persons of professional excellence and they



9

Conservation of Heritage Buildings contained in Annexure-XXV under Regulation No.31 of the Development Regulation of Second Master Plan for Chennai Metropolitan Area, 2025 :

Chief Planner, Chennai Metropolitan Development Authority	Chairman
Superintending Archaeologist, Archaeological Survey of India	Member
Archaeologist nominated by the Tamil Nadu State Archaeology Department	Member
Superintending Engineer (Building) nominated by the Chief Engineer (Building), Public Works Department	Member
Senior Architect, Public Works Department	Member
A Heritage Building/Precincts Conservation Expert nominated by the INTACH, Chennai Chapter	Member
Chairman of the UBTACH, Chennai Chapter	Member
Professor of History nominated by the Head of History Department, University of Madras	Member
Environment Expert nominated by the Director of the Centre for Environmental Studies, Anna University	Member
Thiru. Alandur R.S. Bharathi, Former Member, Chennai Metropolitan Development Authority, representing general public or NGO.	Member
Professor of Architecture nominated by the Director, School of Architecture & Planning, Anna University	Member
Senior Planner (DDP), Chennai Metropolitan Development Authority	Member/ Convenor

7. Mr. N.L. Rajah, learned counsel appearing for the petitioner submitted that in (1997) 10 S.C.C. 441 [Rajeev Mankotia vs. Secretary to the President of India], the Supreme Court had referred to the preservation of heritage buildings as a manifestation of our cultural heritage and the protection of monuments of State importance by the State Governments as well. The learned counsel submitted that in that case, the Supreme Court had taken note of the Ancient Monuments Act and Archaeological Sites and Remains Act, 1958. The definition of 'ancient monument' under Section 2(a) of the said Act will well apply to the present building and it would be a heritage building. He submitted that by destruction and demolition of heritage buildings, the future generation is losing its link with the past. He also referred to (1992) 3 S.C.C. 637 [Life Insurance Corporation of India vs. Prof. Manubhai D. Shah], where the Supreme Court held that the Life Insurance Corporation is a State for the purpose of Article 12 of the Constitution of India. Learned counsel submitted that, therefore, the third respondent is

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4. On the directions of this Court, a Committee of Experts has inspected the building and filed a report on the feasibility of renovation and restoration of the said building. The Committee appointed by the High Court consisted of a Chief Engineer (Retd.), a civil engineer nominated by the Dean, I.I.T., Chennai and the Superintendent, Archaeological Survey of India. They suggested several measures for restoration of the building. Against the interim orders calling for a report, the third respondent appeared before the Supreme Court. On 2.11.2007, the Supreme Court dismissed the Special Leave Petition with the following observations :

"Having heard the learned counsel for the parties, we are of the opinion that as the Committee has submitted its report, in the fitness of things, the question as to whether the building in question should be demolished or not should be determined by the High Court at the earliest. Learned counsel appearing on behalf of the Corporation states that no list is maintained by the Corporation in respect of the heritage buildings. We would, therefore, request the High Court to consider the desirability of disposing of the entire matter as expeditiously as possible and preferably within a period of four weeks from date. All the contentions of the parties shall remain open."

The Life Insurance Corporation had engaged experts and their reports are dated 12.1.2007, 9.1.2008 and 11.1.2008. According to the reports, the economic life of the building had come to an end; therefore, it may be demolished and a new building could be put on the same architectural lines as the existing building so that aesthetics of heritage will not be lost. When the matter came up on 21.10.2009, we granted liberty to the petitioner to engage expertise of anyone who is a heritage engineer or architect to explore the possibility of restoration of the building wholly or in part. A report has been filed on 27.10.2009. The opinion of experts is that it is possible for the third respondent to use the structure for customer service, conference and meeting halls etc.

5. On 19.12.2009, this Court directed the Government to form a Heritage Conservation Committee within three months, if possible, since such a committee has been formed at least in the State of Maharashtra, whose opinion is sought for, when the question of demolition of heritage buildings is in issue.

6. On 1.4.2010, by G.O. Ms. No.85, Housing and Urban Development (U.D.I) Department dated 1.4.2010, the Government accepted the proposal of the Member Secretary, CMDA, appointed a Heritage Conservation Committee with the composition of the following members under Special Rule 2(i) of the Special Rules



in 1925. Whereupon that growing giant incorporated Smith's pharma business into its own and rented out all the space, including the showroom. In 1934, Spencer's finally found a buyer for the building, Bharat Insurance that had been established in Lahore in 1896 by Lala Harikishenlal. Bharat was taken over by the Dalmia's in 1936 and when life insurance was nationalised in 1956, the numerous buildings the various life insurance companies owned in the country - including the Bharat Building - were taken over by LIC, which became one of the biggest property owners in the country. But before that happened, in the triangular garden in front of the old building was raised incongruously, in the art-deco styling of the time, a new, near contiguous block to the design of Brynne, Abbott and Davis, the leading Madras architects of the day. This was called the Bharat Insurance Building; the old Kardyl Building had never really changed its name but had begun to be referred to as the Bharat Building.

-- vide "The Towers of Assurance", The Hindu dated 6.8.2003.

3. One of the finest examples of Indo-Saracenic architecture in the country, the Bharath Insurance building has been listed as a Grade-A Heritage Building as per INTACH listings based on a nation-wide listing standard detailed in the draft heritage regulations formulated by the Ministry of Environment and Forests, Government of India, in June, 1995. The building is presently owned and leased out to tenants by Life Insurance Corporation, the third respondent herein. In the year 1998, the third respondent initiated a process of eviction of tenants in this building on the grounds that the building was unsafe for occupation due to its dilapidated condition. A notice warning the tenants therein of the risk of injury/damage to the property was posted in prominent parts of the building. When the petitioner learnt that a plan to demolish the building was under consideration, the Convenor of the petitioner-Trust approached the Chairman of the third respondent, the Director of Town and Country Planning, Chennai; the Chief Planner, Chennai Metropolitan Development Authority (CMDA), Chennai, expressing their apprehension regarding the destruction of what the petitioner describes as a building having beauty, grandeur and uniqueness. The Government of Tamil Nadu had issued a Government Order in the year 1999 requiring the CMDA, the first and the second respondents, to persuade owners of heritage buildings against demolition thereof and not to issue demolition permits. There was a meeting, but the third respondent expressed dissatisfaction over the rental returns, and since the returns were barely sufficient to meet the costs towards maintenance, the respondent was not interested in retaining the building. According to the petitioner, the third respondent had actually restored all the heritage buildings in its possession in other cities and it is only with regard to this building that the step to demolish it has been taken. It is in these circumstances that the present writ petition has been filed.



J U D G M E N T

( Delivered by Prabha Sridevan, J. )

This writ petition has been filed in public interest by the Indian National Trust for Architectural and Cultural Heritage (INTACH), a nation wide non-profit membership organisation set up in the year 1984 to protect and conserve India's vast natural and cultural heritage. The present public interest litigation is for protection of the Bharath Insurance Building from being demolished without applying the provisions of Rule 22 of the Development Control Rules for Chennai Metropolitan Area, 2004.

2. The Bharath Building, which is presently owned and rented out by the Life Insurance Corporation, is a landmark building recognised as a symbol of heritage conservation's losing battle in the city and State. The history of the building may have to be set out at this juncture. The Bharat Building's story goes back to 1868 when W.E. Smith, a pharmacist, arrived in Madras and, finding enough pharmacies and more in business in the city, proceeded to Ooty where he set up shop. The success of the Ooty pharmacy and other branches in the Blue Mountains made Smith decide not only to look at Madras again, but also set up a shop the city would not forget. On the site that became Bharat Insurance's, he set up facilities that enabled W.E. Smith's to describe itself as "wholesale and manufacturing druggists... opticians, dealers in surgical instruments... and makers of aerated waters." When business grew, Smith's wanted not only more built-space but also a building in keeping with the image it had gained, as South India's leading pharmacists. And so work began in 1894, on a building that was to be inaugurated in 1897 as Kardyl Building, headquarters of the firm that now described itself as "W.E. Smith & Co Ltd.". A triangular building with its peak flattened, Kardyl Building was designed by J.H. Stephens of the Madras P.W.D. and he let his vision of Indo-Saracenic architecture run riot in it. Domes, spires, 100-foot minarets, arches and verandahs blended the Mughal with the Ottoman, the Hindu and the European Classical in a fantasy that at its inauguration was described as "a palatial structure... ten times the size of what was occupied originally... one of the sights of the city... a far greater show than any other building on Mount Road." Within, its main feature was a magnificent 50-foot by 40 showroom. It also provided rooms for doctors and dentists on its first floor facing Mount Road, and for its European assistants facing General Patter's Road. It even ran a café and a beer bar! And in its rear compound was its aerated water factory. When competition - especially from its great rival across the street, Spencer's (more about anon) - increased, Smith's sold its business, building and all, to Spencer's

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2010.

C O R A M

The Honourable Mrs. Justice Prabha Sridevan  
and  
The Honourable Mr. Justice P.P.S. Janarthana Raja

Writ Petition No.25306 of 2006

The Indian National Trust for Architectural  
and Cultural Heritage (INTACH),  
No.1, Second Street,  
Wallace Garden, Chennai. .. Petitioner

versus

1. The Chennai Metropolitan Development Authority,  
Thalamithu Natarajan Maligal,  
No.8, Gandhi Irwin Road,  
Egmore, Chennai-8.
2. The Corporation of Chennai,  
Rep. by its Commissioner,  
Ripon Buildings, Chennai-3.
3. Life Insurance Corporation of India,  
Southern Zonal Office, LIC Building,  
102, Anna Salai, Chennai-2. .. Respondents

Prayer : Writ Petition filed under Article 226 of the  
Constitution of India seeking a mandamus to forbear the  
respondents from granting permission to demolish the  
Bharath Insurance Building situated at No.102, Anna Salai,  
Chennai-2 without applying the provisions of Rule 22 of  
the Development Control Rules and directions of the  
Supreme Court of India in Rajesw Mankotia vs. Secretary to  
President, Writ Petition C.C. No.862 of 1990 passed on  
27.3.1997.

For Petitioner : Mr. N.L. Rajah  
 For Respondent-1 : Mr. I. Paranthaman  
 For Respondent-2 : Mr. V. Bharathidasan  
 For Respondent-3 : Mr. A.L. Somayaji, Senior Counsel  
 For V. Parthiban



Handwritten notes: 17/01/10, 15/9

(12)

From  
The Member-Secretary,  
Chennai Metropolitan Development Authority  
No.1, Gandhi-Irwin Road,  
Thalamuthu-Natarajan Maaligai,  
Egmore, Chennai-8

To  
The Director ,  
Kalakshetra Foundation,  
Tiruvanmiyur,  
Chennai - 600 041.

C1/H/ 8309 /2010

Date: 28.08.2010

Sir/Madam,

Sub: CMDA – DDP Division – Heritage Conservation Committee – Notice issued – Reg.  
Ref: 1. G.O.Ms.No.85, H&UD Dept., dated 01.04.2010  
2. High Court Order on W.P.No.25306/2006 dated 29.04.2010

I am to inform that the Hon'ble High Court of Madras in its order dated 29.04.2010 in W.P. No.25306 of 2006 (Para no.28(5) ) directed to issue cause notices to the concerned especially private owners in respect of buildings/precincts listed in the report filed by the Committee headed by Justice E.Padmanabhan so that there is no threat of demolition or destruction or alteration to such buildings, thereby diminishing their heritage value, without the permission of the Heritage Conservation Committee (a copy of the High Court order is enclosed herewith for ready reference). Your building/premises stated below is one of them listed in the Justice E. Padmanabhan Committee's Report

Justice E. Padmanabhan Committee Report			
S.No.	Building No.	Name of the Building/Precincts	Location
440	S4/1/3	Kalakshetra Foundation Theatre	Anna Street

Hence notice is hereby issued to you in respect of your building/precincts stated above that they shall not be demolished or destroyed or altered without the permission of the Heritage Conservation Committee constituted in CMDA under the provisions of Development Regulations forming part of Second Master Plan approved (under the Tamil Nadu Town & Country Planning Act, 1971).

Encl: As above.  
Copy to:

The Commissioner,  
Chennai Corporation,  
Park Town,  
Chennai - 600 003.

Yours faithfully,  
*[Signature]*  
31/9/10  
for Member-Secretary.

*[Signature]*  
31/9/10

(23)



*P.T. Krishna*

**P.T. KRISHNAN**

M.Arch. (Univ. of California)

ARCHITECT

1, Second Street, Wallace Garden, Chennai-600 006, INDIA  
Phone: (044) 2833 4878, 2833 1759 ■ Fax: (044) 2833 1878

September 17, 2010

Ms. Leela Samson  
Director  
Kalakshetra Foundation  
Thiruvanmiyur  
Chennai – 600 041.

Dear Ms. Samson,

**Sub: CMDA – Notice issued with respect to premises of Kalakshetra Theatre**

This is a general letter sent to all owners of Heritage buildings that are appearing in the CMDA list. This list has not yet been notified by the Government. Until this procedure has been gone through and the heritage value of the building is established after a grading process, it is not possible for the CMDA to approve or deny permission for repairing / restoration. In any case you have commenced the restoration work of the building before the date of intimation received from CMDA. We can therefore continue with the project as planned.

Yours sincerely,

*P.T. Krishnan*

(P.T. KRISHNAN)

ptk/sys1/fsm

54



22<sup>nd</sup> Sept. 2010

The Executive Engineer-II,  
Zone X, Corporation of Chennai,  
Adyar, Chennai-600 020.

Sir,

Sub: Corporation of Chennai - Construction work at  
Kalakshetra Foundation, Muthulakshmi Salai,  
Thiruvanmiyur, Chennai-41 -Stop work notice -  
Production of approved plan issued under Sec.56 & 57  
Of Town and Country Planning Act - Reg.

Ref: 1. PPS No.334-B/79  
2. Building Permission No.310/80, dt.4-7-1980  
3. Site Inspection on 20-9-2010

---

In reference to the Koothambalam-Theatre of Kalakshetra Foundation,  
we would like to inform you that the work that is undertaken is renovation  
and leakage repairs and not construction, <sup>s</sup> expressed by you in your notice.

The consulting Architect Mr. Ravi Neelakanta<sup>n</sup> and Advisor <sup>of</sup> our  
Board, <sup>to</sup> Mr. P.T. Krishnan, Senior Architect, who has done renovation work  
of Senate Building, University of Madras. The same architect is advising us  
on the renovation of the Koothambalam. <sup>I</sup> It was constructed and completed in  
1983. Since then, no repairs were conducted on the theatre. It is after this  
period of nearly 27 years, <sup>that</sup> repairs are being undertaken due to leakage  
causing inconvenience to <sup>the smooth running of</sup> our programmes.

Thanking you,

Yours faithfully,



(Leela Samson)  
Director



13

22<sup>nd</sup> Sept. 2010

To,

The Executive Engineer-II, -  
Zone X, Corporation of Chennai,  
Adyar, Chennai-600 020.

Sir,

Notice No. DN = 155/013/2010 - dt - 20.9.2010.

Sub: ~~Corporation of Chennai - Construction work at~~  
~~Kalakshetra Foundation, Muthulakshmi Salai,~~  
~~Thiruvanmiyur, Chennai-41~~ - Stop work notice - dt  
Production of approved plan issued under Sec.56 & 57  
Of Town and Country Planning Act - Reg.

Ref: 1. PPS No.334-B/79  
2. Building Permission No.310/80, dt.4-7-1980  
3. ~~Site Inspection on 20-9-2010~~

---

In reference to the Koothambalam-Theatre of Kalakshetra Foundation,  
we would like to inform you that the work that is undertaken is renovation  
and leakage repairs and <sup>There is no new</sup> not construction, as expressed by you in your notice.

The consulting Architect Mr. Ravi Neelakanta<sup>iilakanta</sup> and Advisor of our  
Board, Mr. P.T. Krishnan, Senior Architect, who has done renovation work  
at Senate building, University of Madras. The same architect is advising us  
on the renovation of the Koothambalam, it was constructed and completed in  
1983. Since then no repairs were conducted on the theatre. It is after this  
period of nearly 27 years, repairs are being undertaken due to leakage  
causing inconvenience to our programmes.

Thanking you,

Yours faithfully,

(Leela Samson)  
Director

26



**CORPORATION OF CHENNAI, ZONAL OFFICE - X CHENNAI**

16

**STOP WORK NOTICE / NOTICE CALLING FOR APPROVED PLAN**

Notice Under Section 56 and 57 read with Section 85 of the Tamil Nadu Town and Country planning Act, 1971 (Tamil Nadu Act, 35 of 1972 as amended in Act, 22 of 1974)

Notice No. DN - 155/ 013 /2010

Dated :20.9.10

**Sub : Corporation of Chennai - Construction work at Kalashetra Foundation, Muthulakshmi Salai, Thiruvanmiyur, Chennai - 41. Stop work Notice / Production of approved plan issued under section 56 and 57 of Town and Country Planning Act.**

**Ref: Site Inspection made on 20.9.2010**

Your construction at the site under reference was inspected. No approved plan has been exhibited at the site or produced when called for. Therefore, you are requested to produce a copy of the approved plan in original for verification and if no approved plan is available or the construction is in deviation to the approved plan, you are requested to stop the work immediately and confirm in writing the fact of having done so, with in 3 days from the date of receipt of this notice. If you fail to comply with this notice with in the stipulated time, Corporation pf Chennai will be constrained to take legal against the construction under the provisions of the Town and Country planning Act, 1971.

To

M/S. Kalashetra Foundations,  
Muthulakshmi Salai,  
Thiruvanmiyur, Chennai-41

*20/9/2010*  
*AEE/155*  
EXECUTIVE ENGINEER II  
ZONE X  
EXECUTIVE ENGINEER  
ZONE X  
CORPORATION OF CHENNAI

27



17

22nd Sept. 2010

The Executive Engineer-II,  
Zone X, Corporation of Chennai,  
Adyar, Chennai-600 020.

Sir,

Sub: Notice No.DN-155/013/2010, dt.20-9-2010 -  
Stop work notice - Production of approved plan  
issued under Sec.56 & 57 of Town and Country  
Planning Act - Reg.

Ref: 1. PPS/BA- No.334-B/79  
2. Building Permission No.310/80, dt.4-7-1980  
---

In reference to the Koothambalam -Theatre of Kalakshetra Foundation, we would like to inform you that the work that is undertaken is renovation and leakage repairs and there is no new construction, as expressed by you in your notice.

The consulting Architect Mr. Ravi Niilakantan and Advisor on our Board is Mr. P.T. Krishnan, Senior Architect, who has done renovation work of Senate building, University of Madras. The same architect is advising us on the renovation of the Koothambalam. It was constructed and completed in 1983. Since then, no repairs were conducted on the theatre. It is after this period of nearly 27 years, that repairs are being undertaken due to leakage causing inconvenience to the smooth running of our programmes.

Yours faithfully,



(Leela Samson)  
Director

Copy to : The Assistant Executive Engineer,  
Corporation of Chennai  
Division No. 155  
Thiruvanmiyur,  
Chennai 600 041.

28





रसां वै सः

**Kalakshetra Foundation**

18

22<sup>nd</sup> Sept. 2010

The Executive Engineer-II,  
Zone X, Corporation of Chennai,  
Adyar, Chennai-600 020.

Sir,

Sub: Notice No.DN-155/013/2010, dt.20-9-2010 -  
Stop work notice - Production of approved plan  
issued under Sec.56 & 57 of Town and Country  
Planning Act - Reg.

Ref: 1. PPS/BA- No.334-B/79  
2. Building Permission No.310/80, dt.4-7-1980

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Yours faithfully,

(Leela Samson)  
Director

Copy to : The Assistant Executive Engineer,  
Corporation of Chennai  
Division No. 155  
Thiruvanmiyur,  
Chennai 600 041.

29

Founder: Smt. Rukmini Devi  
Chairman: Justice Sri S. Mohan  
Director and Secretary: Ms. Leela Samson

Tiruvanmiyur, Chennai 600 041, India  
Phone: +91-(0)44-24520836/4057/1844 • Fax: +91-(0)44-24524359  
E-mail: admin@kalakshetra.in • Website: www.kalakshetra.in







ससो वै सः

Kalakshetra Foundation

19

22nd Sept. 2010

The Executive Engineer-II,  
Zone X, Corporation of Chennai,  
Adyar, Chennai-600 020.

Sir,

Sub: Notice No.DN-155/013/2010, dt.20-9-2010 -  
Stop work notice - Production of approved plan  
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Planning Act - Reg.

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Yours faithfully,

(Leela Samson)  
Director

Copy to : The Assistant Executive Engineer,  
Corporation of Chennai  
Division No. 155

திருவனமியூர், Chennai 600 041.

சென்னை மாநகர  
மண்டலம் - 20

அலையார் சென்னை  
தயார் பெறப்பட்டது  
சென்னை

சென்னை

30

Founder: Smt. Rukmini Devi  
Chairman: Justice Sri S. Mohan  
Director and Secretary: Ms. Leela Samson

Tiruvanniyur, Chennai 600 041, India  
Phone: +91-(0)44-24520836/4057/1844 • Fax: +91-(0)44-24524359  
E-mail: admin@kalakshetra.in • Website: www.kalakshetra.in







ॐ सां व मः

Kalakshetra Foundation

20

22nd Sept. 2010

The Executive Engineer-II,  
Zone X, Corporation of Chennai,  
Adyar, Chennai-600 020.

Sir,

Sub: Notice No.DN-155/013/2010, dt.20-9-2010 -  
Stop work notice - Production of approved plan  
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Planning Act - Reg.

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Yours faithfully,

(Leela Samson)  
Director

Copy to : The Assistant Executive Engineer,  
Corporation of Chennai  
Division No. 155

Tiruvanniyur,  
Chennai 600 041.

சென்னை மாநகராட்சி  
பகுதி - 155  
திருவணியூர் - சென்னை 600 041.  
20  
சென்னை மாநகராட்சி  
பகுதி - 155  
திருவணியூர் - சென்னை 600 041.  
சென்னை மாநகராட்சி  
பகுதி - 155  
திருவணியூர் - சென்னை 600 041.

Tiruvanniyur, Chennai 600 041, India  
Phone: +91-(0)44-24520836/4057/1844 • Fax: +91-(0)44-24524359  
E-mail: admin@kalakshetra.in • Website: www.kalakshetra.in



31

Founder: Smt. Rukmini Devi  
Chairman: Justice Sri S. Mohan  
Director and Secretary: Ms. Leela Samson



E/o. 20/18/10.

FORM NO. I (SEC. 56)

DEMOLITION NOTICE

CORPORATION OF CHENNAI, ZONAL OFFICE - X, CHENNAI.

NOTICE under section 56 read with section 85 of the Town and Country Planning Act, 1971, requiring Demolition of the construction put up unauthorizdly without planning permission required under section 49 of the said Act.



Letter No. / Dn. 155/013/2010

Dated: 14.12.10

Sub: Corporation of Chennai - Unauthorised Construction without planning permission at and Renovation of Guest house (manasuni, upashika), Visual Act Section & Auditorium without planning permission Demolition notice - Issued.



Ref: Stop Work Notice No. Dn. 155/013/2010 dt. 20.9.2010. 2. orders of Hon'ble High Court in W.P.No. 36902/2007, mp no. 1/2007 dt. 12.12.2007.

The construction of and Renovation of Guest house (manasuni, upashika) Visual Act section and Auditorium at Kalakshetra Foundation, Thiruvannmiyur, Chennai - 41 is unauthorized one. it has been carried without planning permission required under section 49 of Town and Country Planning Act, 1971.

2. You have not produced the copy of valid approved plan, in response to the stop work Notice cited.

3. You are hereby called upon to restore the land / building to its condition, as it existed on 27.7.2007, within 30 days from the date of receipt of this notice, failing which action will be taken under Sec.56, Sub-section(5) Clause (b) (i) and (ii) Town and Country Planning Act, 1971, to restore the land / building to its condition as on 27.7.2007 without any further notice to you.

EXECUTIVE ENGINEER ZONE - X

20/14/12/10 AEE/105

To The Director, M/s. Kalakshetra Foundations, Mulakshmi salai, Thiruvannmiyur, Chennai - 41.

14/12

32



22

REGD POST WITH A/D

ADVAR PO <600020>  
 RLAD B 1247  
 Counter No: 2, OP-Code:   
 #####  
 INDIA POSTAGE  
 Amount: Rs 25.00  
 #####  
 14/12/2010 16:32  
 Wt: 20grams To : CHENNAI, PIN: 600041

To: The Director,  
 M/s. Kalakshetra Foundations  
 Muthulekshmi Salai,  
 Thiruvanniyur,  
 Chennai - 600041.

From  
 The Asst. Exe. Engineer,  
 Division-155, Zone-X,  
 Corporation of Chennai,  
 2, 8th East Street,  
 Thiruvanniyur,  
 Chennai - 600041.

155



E/o 18/12/10

25

FORM NO.1 (SEC.56)

DEMOLITION NOTICE

CORPORATION OF CHENNAI, ZONAL OFFICE - X, CHENNAI.



NOTICE under section 56 read with section 85 of the Town and Country Planning Act, 1971, requiring Demolition of the construction put up unauthorizedly without planning permission required under section 49 of the said Act.

Letter No. / Dn. 155/013/2010

Dated: 14.12.10



Sub: Corporation of Chennai - Unauthorised Construction without planning permission at and Renovation of Guest house (Manasuni, Upashika), Visual Act Section & Auditorium without planning permission Demolition notice - Issued.

Ref: Stop Work Notice No. Dn. 155/013/2010 dt 20.9.2010, & orders of Hon'ble High Court in W.P.No. 36902/2007, MP No. 1/2007 dt. 12.12.2007.

The construction of and Renovation of Guest house (Manasuni, Upashika) Visual Act Section and Auditorium at Kalakshetra Foundation, Thiruvannmiyur, Chennai - 41..... is unauthorized one. it has been carried without planning permission required under section 49 of Town and Country Planning Act, 1971.

- 2. You have not produced the copy of valid approved plan, in response to the stop work Notice cited.
- 3. You are hereby called upon to restore the land / building to its condition, as it existed on 27.7.2007, within 30 days from the date of receipt of this notice, failing which action will be taken under Sec.56, Sub-section(5) Clause (b) (i) and (ii) Town and Country Planning Act, 1971, to restore the land / building to its condition as on 27.7.2007 without any further notice to you.

EXECUTIVE ENGINEER ZONE - X

20/14/12/10 AEE/105

To The Director, M/s. Kalakshetra Foundations, Mulakshmi Salai, Thiruvannmiyur, Chennai - 41.

18/12/10 (34)



The work of construction of guest house was entrusted to Central Public Work Department / CPWD in 2003 and completed in 2005. This block now called as 'Upasika'. No renovation work is done in the block except painting and polishing work done in 2010 as routine maintenance work.

It could be seen <sup>from above</sup> that work of all the buildings mentioned <sup>in your notice</sup> above were completed before 2005 and repair and maintenance works was only undertaken from time to time depending upon for need and exigency present at the time.

Yours faithfully,

(Leela Samson)  
Director

Copy to 1) The Commissioner,  
Corporation of Chennai,  
Ribbon Building,  
Chennai 600 003.

2) The Assistant Executive Engineer  
Corporation of Chennai Dn: 155  
Thiruvanmiyur, Chennai 600 041

*[Handwritten signature]*  
EO

*[Handwritten signature]*  
24.12.10  
AO

*[Handwritten signature]*  
CAO

Deputy Director

*[Handwritten signature]*  
29/12

Director.

35



# KALAKSHETRA FOUNDATION

C:\ 2010-2011\V.Admin\Corporation of Chennai. doc	December 23, 2010
---	-------------------

To  
 The Executive Engineer - II,  
 Zone X, Corporation of Chennai,  
 Adyar, Chennai 600 020.

Sir,

Sub: Unauthorized construction and Renovation of guest house (Manasvini, Upasika, and Visual art section and Auditorium in Kalakshetra Foundation – Reg.

- Ref: i) Stop work Notice No.Dn;155/013/2010 dated 20.9.2010. -P 16  
 ii) Orders of Hon'ble High court in W.P.No.36902/2007,mp and 1/2007 dated 12.12.2007  
 iii) Form No.1 (SEC.56) – Demolition Notice – Letter No/Dn.155/013/2010 Dated 14.12.2010. -P 21  
 iv) Our letter dated 22<sup>nd</sup> September 2010 to The Executive Engineer – II/Zone X -P 20

<sup>X</sup>  
 With reference to letter cited above, points with reply is as below:-

The construction of Auditorium was completed in 1985, being 25 years <sup>and</sup> span and no repairs were carried out in the auditorium. <sup>after that</sup> Due to the water leakages in the roof area, the need for the repair work for sealing the water leakage <sup>from</sup> the entire roof after removing existing roof tiles and replacing work to up keep the Auditorium in good condition some works have been done. <sup>A</sup> The copy of the original approved plan for the Auditorium has been submitted to The Commissioner of Chennai on 20.12.2010, <sup>as required by Corp of Chennai. As stated</sup> <sup>as required by your letter dated</sup> 1965

~~In connection with~~ the visual art section building, the building was constructed during 1970 before Thiruvanniyur town came under the jurisdiction of Corporation of Chennai. This building after clearing bushes in the surrounding, repair to the flooring work, the building used as art class practice for the students. This practice was outside to regular study time for the students. No renovation work is done in the building so far.

<sup>As we are being</sup> Kalakshetra Foundation <sup>is</sup> an autonomous Institution under <sup>Ministry</sup> Department of Culture, Government of India; the work of construction of Besant Centenary Block was entrusted to Central Public Work Department / CPWD in 2003 and completed in 2005. The block now called as MANASVINI, one of the hostel block for the students. Since the performance and level of the cement flooring (existing) was not up to level, the need for redoing <sup>and</sup> the repairing flooring (tile) work <sup>was done, for accommodating the students.</sup> .....2

*was taken up*

*is and had suffered much wear & tear.*

*(Signature)*



2

- 2 -

The work of construction of guest house was entrusted to Central Public Work Department / CPWD in 2003 and completed in 2005. This block now called as 'Upasika'. No renovation work is done in the block except painting and polishing work done in 2010 as routine maintenance work.

It could be seen from above that work of all the buildings in your notice were completed before 2005 and repair and maintenance works was only undertaken from time to time depending upon for need and exigency present at the time.

(Leela Samson)  
Director

- Copy to 1) The Commissioner,  
Corporation of Chennai,  
Ribbon Building,  
Chennai 600 003.
- 2) The Assistant Executive Engineer  
Corporation of Chennai Dn: 155  
Thiruvanmiyur, Chennai 600 041

(37)





सतो वै सः

Kalakshetra Foundation



27

C:\ 2010-2011\V.Admin\Corporation of Chennai. doc	December 23, 2010
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To  
 The Executive Engineer - II,  
 Zone X, Corporation of Chennai,  
 Adyar, Chennai 600 020.

Sir,

Sub: Unauthorized construction and Renovation of guest house (Manasvini, Upasika, and Visual art section and Auditorium in Kalakshetra Foundation – Reg.

- Ref: i) Stop work Notice No.Dn;155/013/2010 dated 20.9.2010.  
 ii) Orders of Hon'ble High court in W.P.No.36902/2007,mp and 1/2007 dated 12.12.2007  
 iii) Form No.1 (SEC.56) – Demolition Notice – Letter No/Dn.155/013/2010 Dated 14.12.2010.  
 iv) Our letter dated 22<sup>nd</sup> September 2010 to The Executive Engineer – II/Zone X

The construction of Auditorium was completed in 1985, and no repairs were carried out in the auditorium. Due to the water leakages in the roof area, the need for <sup>repair works</sup> the repair work for sealing the water leakage from the entire roof after removing existing roof tiles and replacing work to up keep the Auditorium in good condition <sup>some works have been done</sup> some works have been done. A copy of the original approved plan for the Auditorium has been submitted to The Commissioner, The Corporation of Chennai on 20.12.2010 as requested by your letter dated 14.12.2010

The visual art section building, <sup>was entrusted</sup> the building was constructed during 1970 before Thiruvanmiyur town came under the jurisdiction of Corporation of Chennai. This building after clearing bushes in the surrounding, <sup>repair to the flooring work</sup> the building used as art class practice for the students. <sup>the 30mm x 30mm tiles were replaced & repair of the flooring has been done.</sup> No renovation work is done in the building so far.

**As we are the an autonomous Institution under the Ministry of Culture, Government of India,** the work of construction of Besant Centenary Block was entrusted to Central Public Work Department / CPWD in 2003 and completed in 2005. The block is now called as MANASVINI, one of the hostel block for the students. Since the quality and level of the cement flooring (existing) was not up to level and suffered much wear and tear, the need for redoing the repairing flooring (tile) work was taken up.

.....2

Founder: Smt Rukmini Devi  
 Chairman: Justice Sri S. Mohan  
 Director & Secretary: Ms. Leela Samson



E-mail: admin@kalakshetra.in  
 Phone: +91-(0)44-24520836/4057/1844  
 Fax: +91-(0)44-24524359

38



The work of construction of <sup>the</sup> guest house was entrusted to Central Public Work Department / CPWD in 2003 and completed in 2005. This <sup>the</sup> block <sup>Guest House is</sup> now called as 'Upasika'. No renovation work is done in the block except painting and polishing work done in 2010 as <sup>part of</sup> routine maintenance work. <sup>which has been done</sup>

It could be seen from above <sup>only</sup> that work of all the buildings in your notice were completed before 2005 and repair and maintenance works was ~~only undertaken from time to time~~ <sup>has been taken up since</sup> depending upon for need and exigency present at the time. <sup>then, so as to attend to normal wear & tear of the buildings</sup>

(Leela Samson)  
Director

- Copy to 1) The Commissioner,  
Corporation of Chennai,  
Ribbon Building,  
Chennai 600 003.
- 2) The Assistant Executive Engineer  
Corporation of Chennai Dn: 155  
Thiruvanmiyur, Chennai 600 041

(29)





## Kalakshetra Foundation

29

C:\ 2010-2011\V.Admin\Corporation of Chennai. doc

December 23, 2010

To  
The Executive Engineer - II,  
Zone X, Corporation of Chennai,  
Adyar, Chennai 600 020.

Sub: Unauthorized construction and Renovation of guest house (Manasvini, Upasika, and Visual art section and Auditorium in Kalakshetra Foundation – Reg.

- Ref: i) Stop work Notice No.Dn;155/013/2010 dated 20.9.2010.  
ii) Orders of Hon'ble High court in W.P.No.36902/2007,mp and 1/2007 dated 12.12.2007  
iii) Form No.1 (SEC.56) – Demolition Notice – Letter No/Dn.155/013/2010 Dated 14.12.2010.  
iv) Our letter dated 22<sup>nd</sup> September 2010 to The Executive Engineer – II/Zone X

The construction of Auditorium was completed in 1985, and no repairs were carried out in the auditorium. Due to the water leakages in the roof area, the repair work for sealing the water leakage from the entire roof, after removing existing roof tiles and replacing them to keep the Auditorium roofing in good condition, has been carried out. A copy of the original approved plan for the Auditorium has been submitted to The Commissioner, The Corporation of Chennai on 20.12.2010 as requested by your letter dated 14.12.2010

The visual art section building was constructed during 1970, much before Thiruvanniyur town came under the jurisdiction of Corporation of Chennai. As this building used as art class practice for the students, the surroundings rank vegetation was cleared & repair of the flooring was done No renovation work has been done in the building so far.

**As we are the an autonomous Institution under the Ministry of Culture, Government of India**, the work of construction of Besant Centenary Block was entrusted to Central Public Works Department / CPWD in 2003 and completed in 2005. The block is now called as MANASVINI, one of the hostel block for the students. Since the quality and level of the cement flooring (existing) was not up to level and suffered much wear and tear, the need for redoing the repairing flooring (tile) work was taken up.

.....2

Founder: Smt Rukmini Devi  
Chairman: Justice Sri S. Mohan  
Director & Secretary: Ms. Leela Samson



E-mail: admin@kalakshetra.in  
Phone: +91-(0)44-24520836/4057/1844  
Fax: +91-(0)44-24524359

49



# KALAKSHETRA FOUNDATION

C:\ 2010-2011\V.Admin\Corporation of Chennai. doc	December 23, 2010
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### Note

Sub: Unauthorized construction and Renovation of guest house (Manasvini, Upasika, and Visual art section and Auditorium – Reg.

- Ref: i) Stop work Notice No.Dn;155/013/2010 dated 20.9.2010. — P-16
- ii) Orders of Hon'ble High court in W.P.No.36902/2007,mp and 1/2007 dated 12.12.2007
- iii) Form No.1 (SEC.56) – Demolition Notice – Letter No/Dn.155/013/2010 Dated 14.12.2010. — P-21
- iv) Our letter dated 22<sup>nd</sup> September 2010 to The Executive Engineer – II/Zone X — P-20

The reply to the notice issued by the Executive Engineer –II, Zone X, Corporation of Chennai, Adyar, Chennai 600 020 and copy to The AEE/Dn 155/Thriuvanmiyur, and The Commissioner, Corporation of Chennai, Ribbon building is submitted for approval, please.

Page 24

Page 24 & 25

*[Handwritten signature]*  
EO

*[Handwritten signature]*  
AO 23/12/10  
*[Handwritten signature]*  
CAO 21/12/10

Deputy Director

*[Handwritten signature]*  
23/12

Director.

*[Handwritten signature]*

*[Handwritten mark]*



The work of construction of the guest house was entrusted to the Central Public Work Department / CPWD in 2003 and completed in 2005. The guest house is now called as "Upasika". No renovation work is done in the block except painting and polishing work which has been done in 2010 as part of routine maintenance work.

It could be seen from above that work of all the buildings in your notice were completed before 2005 and repair & only maintenance works has been taken up since then, so as to attend to normal wear & tear of the buildings depending upon for need and exigency present at the time.



(Leela Samson)  
Director

- Copy to 1) The Commissioner,  
Corporation of Chennai,  
Ribbon Building,  
Chennai 600 003.
- 2) The Assistant Executive Engineer  
Corporation of Chennai Dn: 155  
Thiruvanmiyur, Chennai 600 041







रसो वै सः

## Kalakshetra Foundation

By R.PAD

C:\ 2010-2011\V.Admin\Corporation of Chennai. doc

December 23, 2010

To  
The Executive Engineer - II,  
Zone X, Corporation of Chennai,  
Adyar, Chennai 600 020.

Sub: Unauthorized construction and Renovation of guest house (Manasvini, Upasika, and Visual art section and Auditorium in Kalakshetra Foundation – Reg.

- Ref: i) Stop work Notice No.Dn;155/013/2010 dated 20.9.2010.  
ii) Orders of Hon'ble High court in W.P.No.36902/2007,mp and 1/2007 dated 12.12.2007  
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iv) Our letter dated 22<sup>nd</sup> September 2010 to The Executive Engineer – II/Zone X

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The visual art section building was constructed during 1970, much before Thiruvanniyur town came under the jurisdiction of Corporation of Chennai. As this building is used for art classes, the surroundings rank vegetation was cleared & repair of the flooring was done. No renovation work has been done in the building so far.

**As we are the an autonomous Institution under the Ministry of Culture, Government of India**, the work of construction of Besant Centenary Block was entrusted to the Central Public Works Department / CPWD in 2003 and completed in 2005. The block is now called MANASVINI, one of the hostel block for the students. Since the quality and level of the cement flooring (existing) was not up to level and had suffered much wear and tear, the need for redoing & repairing the flooring (tile) work was taken up.

.....2

Founder: Smt Rukmini Devi  
Chairman: Justice Sri S. Mohan  
Director & Secretary: Ms. Leela Samson



E-mail: admin@kalakshetra.in  
Phone: +91-(0)44-24520836/4057/1844  
Fax: +91-(0)44-24524359

43



31/12/10

0/520

\* एक रजिस्ट्री पत्र/पास्टकार्ड/पैकेट/पैरेल प्राप्त हुआ

\* Received a Registered Letter/Postcard/Packet/Parcel Insured

पाने वाले का नाम  
Addressed to (Name)

THE ASSISTANT EXECUTIVE ENGINEER

† बीमा का मूल्य (रुपयों में)  
† Insured for Rupees

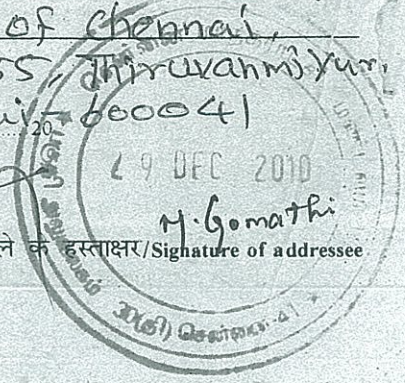
Corporation of Chennai,  
Division-155, Thiruvanniyur,  
Chennai-600041

वितरण की तारीख/Date of delivery

\* अनावश्यक को काट दिया जाए।  
\* Score out the matter not required.

† केवल बीमा वस्तुओं के लिए।  
† For Insured articles only.

पाने वाले का हस्ताक्षर/Signature of addressee



Handwritten mark in a circle.

Handwritten mark.

31/12/10

1/9

DEPARTMENT OF POSTS, INDIA

प्रेषक डाकघर की नाम मोहर  
Name stamp of office of posting

REGISTERED WITH ACK. DUE



तारीख-मोहर  
Date-Stamp

भेजने वाले का पता  
Sender's Address

KALAKSHETRA FOUNDATION  
THIRUVANNIYUR,  
CHENNAI-600 041

पिन/PIN

MGIPCBE-DTP-53 PSD/CBE/08-26-9-08/10,00,000 Pads.

Handwritten mark.

44



Insured

पाने वाले का नाम  
Addressed to (Name) } The Executive Engineer - II  
Zone X, Corporation of Chennai,  
Adyar Chennai - 600020

† बीमा का मूल्य (रुपयों में)  
† Insured for Rupees

वितरण की तिथि (Date of delivery) ..... 20

\* अनावश्यक नंबर नहीं दिया जा सकता  
\* Score out the number not required

† कवरल सामान के लिए आवश्यक  
† For Insured articles

पाने वाले के हस्ताक्षर/Signature of addressee

34

प्रेषक डाकघर की नाम मोहर  
Name stamp of office of posting

REGISTERED WITH ACK. DUE

तारीख-मोहर  
Date-Stamp

भेजने वाले का पता  
Sender's Address

KALAKSHETRA FOUNDATION  
THIRUVANMIYUR,  
CHENNAI-600 041

पिन/PIN

MGIPCBE--DTP--53 PSD/CBE/08--26-9-08/10,00,000 Pads.

45



\* Received a Registered Letter/Postcard/Packet/Parcel  
Insured

पाने वाले का नाम } The Commissioner  
 Addressed to (Name) } Corporation of Chennai,  
Rippon Building,  
Chennai - 600003

† बीमा का मूल्य (रुपयों में)  
 † Insured for Rupees

वितरण की तारीख/Date of delivery ..... 20

\* अनावश्यक को काट दिया जाए।  
 \* Score out the matter not required.  
 † केवल बीमा वस्तुओं के लिए।  
 † For Insured articles only.

पाने वाले के हस्ताक्षर/Signature of addressee

29 DEC 2010

REGISTRATION  
 600003  
 CHENNAI

प्रेषक डाकघर की नाम मोहर  
 Name stamp of office of posting

भेजने वाले का पता  
 Sender's Address

पिन/PIN

REGISTRATION  
 600003  
 CHENNAI

REGISTERED WITH ACK. DUE

KALAKSHETRA FOUNDATION  
 THIRUVANMIYUR.  
 CHENNAI-600 041

तारीख-मोहर  
 Date Stamp

MGIPCBE-DTP-53 PSD/CBE/08-26-9-08/10,00,000 Pads.

46



We seek your cooperation.

Regards,

Ravi niilakantan

Ramachandran you have not forwarded the Demolition Notice – ltr no/ Dn.155/013/2010 dt 14.12.2010.

Please scan and mail the letter.

Ravi

---

57





AO Kalakshetra &lt;ao@kalakshetra.in&gt;

---

## letter to EE

---

Ravi Nilakantan &lt;card@vsnl.com&gt;

Wed, Jan 19, 2011 at 10:13 AM

To: ao@kalakshetra.in

Cc: director@kalakshetra.in, dd@kalakshetra.in

Reply to letter notice no. DN – 155/013/2010 dt. 20.09.2010.

Dear Sri. Ramachandran,

With reference to the stop work notice by the EE corporation, our reply should be:

Koothambalam:

1. The said building is sanctioned by CMDA on the 06.11.1979 and approved by Corporation on the 14.07.1980.
2. True copies of the sanctioned plan are enclosed herewith for your reference.

**We have not made any changes to the building PERIPHERY, Height or the elevation of the building and is in accordance with the Planning permission.**

Following are repairs and maintenance carried out:

3. Mangalore tile removal and replacing
4. Varnish/paint to roof wooden members
5. Safety grills
6. Redoing red oxide flooring in the Koothambalam, green room and balcony
7. Entrance lobby – repairs
8. Over all painting and maintenance
9. Landscape works
10. Repairs and rerouting of all utilities.

We have lowered the mangalore tile entrance roof for approachable maintenance.

We are an autonomous Institution under the Ministry of Culture, Govt. of India and we are conducting the repairs, maintenance and landscape with qualified personnel.

48



TO

..The Secretary to Government  
Government of Tamil Nadu  
Revenue Department  
Secretariat, Fort St. George, Chennai - 600 009.

.The Tahsildar  
Mylapore - Triplicane Taluk  
Mylapore, Chennai - 600 004.

.The Director  
M/s. Kalakshetra Foundation  
Kalakshetra Road,  
Sant Nagar, Chennai - 600 090.

The Secretary to Government  
Government of India  
Ministry of Culture  
New Delhi - 110 001.

cc to M/s. A.S. Vijayaraghavan, SCGSC, Sr. 43227  
cc to Mr. Satish Parasaran, Advocate, Sr. 43035  
cc to M/s. B.N. Suchindran, Advocate, Sr. 43279

W.P. NO. 36902 OF 2007

(CO)

31/7

(99)  
bh 0067817



"13..... I state that mere a perusal of the records will clearly show that the Old S.No.179/2 of Thiruvanmiyur Village, measuring an extent of 21.12 acres along with certain other survey numbers were merged and was assigned with new survey number as T.S.No.1 Part, Block No.58 of Thiruvanmiyur Village. The entire property in T.S.No.1 is surrounded by a compound wall and is in physical possession and enjoyment of Kalakshetra Foundation. As the individuals are not in possession of the property, sub-division and separate registry in respect of the portion claimed by them was not effected by this office. The request of the petitioners could not be considered at this stage since they have not been in possession and enjoyment of the property claimed by them."

10. In the counter affidavit filed by the fourth respondent, namely the Central Government, apart from tracing the history, it was stated that the Parliament enacted the legislation that the property of Kalakshetra Foundation should vest with the third respondent. It was also stated that Kalakshetra Foundation had been in uninterrupted possession of the property for over fifty years and the said property along with other properties were acquired under different sale deeds by Smt. Rukmani Arundale, the erstwhile Founder of Kalakshetra and by another Society by name Besant Centenary Trust, which has also been merged with the erstwhile Kalakshetra under the order of this Court.

11. In the counter affidavit filed by the third respondent, the entire history of starting of Kalakshetra by Late Smt. Rukmani Arundale was set out. It was also stated that there was no record to show that the property in question was owned by K.K. Srinivasa Pillai, who was purportedly created the will. Even the said will was not probated and therefore, it has got no evidentiary value. The properties were purchased by Late Smt. Rukmani Arundale and Besant Centenary Trust under different sale deeds and the erstwhile Kalakshetra was in possession of the entire property for over 35 years. Even assuming that the petitioners' claim to have the possession of revenue records like patta or "A" Register, such rights were extinguished by the continuous and uninterrupted possession of such property by the third respondent for over several decades. The petitioners, if at all want to establish their right, they will have to move only the competent Civil Court. It was further stated that owing to the recent rains and due to erosion of soil, the compound wall running to an extent of 100 feet on the northern side of

bh 0067815



S.No.1 which was constructed over four decades had collapsed and the third respondent was in the process of reconstructing the same, when the order of status-quo passed by this Court was communicated to them. The third respondent has immediately stopped the work. The first respondent is running number of schools and other institutions which promote various forms of fine arts and cultural activities in which children and young ladies participate. There are about 1000 students studying in the Besant School and the College of Fine Arts, which about 200 students are residing in the campus. There are also students from the North Eastern States of India. If the compound wall is not erected, disgruntled persons and anti social elements might unlawfully trespass into the compound, wherein number of girl children are studying. There are also attempts made by the anti social elements to encroach into the property, for which action has been initiated by the Estate Officer for removing them.

12. In the light of these facts, the contention raised by the petitioners cannot be countenanced by this Court for more than one reason. The petitioners filed the present writ petition as if it were for title suit and thereafter seek for mutation of the revenue records by grant of separate patta. Even the will which is said to have been given to them, has also not been probated and the evidentiary value of such document is also doubtful. Further, as rightly contended by the respondents, in such circumstances, the only remedy open to the petitioners is to move the appropriate Civil Court and certainly in the guise of seeking for a direction to sub-divide the property, the petitioners cannot collaterally claim title over the property in question.

13. This Court is not inclined to entertain the writ petition and hence, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-  
Asst. Registrar.

/true copy/

  
Sub Asst. Registrar.



declared as an Institution of national importance under the Kalakshetra Foundation Act, 1993 were assigned new T.S.No.1 and the petitioners' predecessor in title and the third respondent were shown as joint pattadars in respect of the entire extent of land in T.S.No.1, which included the schedule mentioned property in old S.No.179/2. The joint patta was lying in common with the third respondent. On a recent inspection of the schedule mentioned property, the petitioners were shocked to note that a few buildings of the third respondent have come up in the area and their genuine apprehension was that the third respondent might have put up construction in the schedule mentioned property, which belongs to the petitioners. Apart from the revenue records confirming the title of G. Srinivasan and after him the petitioners as his family members over the schedule mentioned property, the petitioners' title over the property also stood acknowledged by the fact that the property was not listed amongst the assets and properties declared to have been vested with the Board of Trustees of the third respondent, by virtue of Section 4 of the Kalakshetra Foundation Act, 1993 read with the Second Schedule to the Act. The petitioners sent a letter dated 07.03.2007 to the second respondent requesting to sub-divide their land from the joint holding in T.S.No.1 and to issue separate patta. Since the second respondent has not initiated any action towards issuance of patta in favour of the petitioners, the writ petition came to be filed.

9. In the counter affidavit filed by the second respondent Tehsildar it was stated that there was no material to show that the late K.K.Srinivasa Pillai was the owner of the property and there was also no evidence to show that the purported will was probated as required under the law. The lands were re-surveyed during the year 9. and the entire S.No.179/2 along with adjoining properties of Kalakshetra Foundation was declared as an Institution of National importance under Kalakshetra Foundation Act, 1993 and they were assigned new T.S.No.1. The petitioners have not explained as to what steps have been taken by them, to preserve, if they are the owners and interest holders of the land. There was no evidence to show that they were in possession and enjoyment of the property. All these facts cannot be gone into in a writ petition under Article 226 of the Constitution of India. If the petitioners want their title to be recognized, they will have to move the appropriate Civil Court. The petitioners' application for sub-division was considered and it was found that the property is in actual possession and enjoyment of the third respondent for a long period and since the petitioners were not in actual possession, enjoyment and occupation of the property, their application was rejected on 29.11.2006, which was also communicated to them. However, they have not preferred any appeal. In this regard, in para 13 of the counter affidavit, it was averred as follows:

(5)



been added as party respondent, since by virtue of the Kalakshetra Foundation Act, 1993, all the assets and properties of the Kalakshetra Foundation have been vested with the Central Government under Section 4 of the Act.

6. In the meanwhile, the petitioners filed a contempt petition in C.P.No.143 of 2011 seeking to punish the respondent namely the Director of Kalakshetra Foundation for having disobeyed the order dated 12.12.2007. However, the contempt petition was dismissed on 06.06.2011 stating that the contempt petition need not be proceeded with. Since a counter affidavit has been filed, the matter was directed to be posted for final disposal.

7. On behalf of the third respondent Kalakshetra Foundation, counter affidavit dated 22.01.2008 was filed. The fourth respondent namely, the Government of India has also filed a counter affidavit dated 16.03.2009. A counter affidavit dated 01.11.2010 was filed by the first respondent State adopting the counter affidavit dated 16.03.2010 filed by the second respondent Tahsildar. The third respondent filed a memo dated 05.02.2010 stating that they are the absolute owner of the land, which is the subject matter of the writ petition and they have been in uninterrupted and continuous possession of the said land for the past 50 years. The said memo came to be filed when the matter was referred for resolution of the dispute before the Permanent Lok Adalat. However, there was no scope for any settlement.

8. The case of the petitioners was that they are the absolute owners of the land situated in S.No.179/2, admeasuring an extent of 21.12 acres in Thiruvanmiyur Village, Chennai District. The revenue records duly reflected the petitioners' right, title and interest in the said property. The title of the said property remained with their family for several decades, as the property was initially owned by one K.K.Srinivasa Pillai, after whose demise in the year 1953, the property devolved under a will dated 02.07.1950 on Brother K.Ganapathia Pillai's son K.G.Srinivasan, who died in the year 1980, who is the father of the petitioners 1 to 3 and 6 and one Amaguru, whose widow and daughters are the petitioners 4 and 5. Apart from the said property, the petitioners' family initially owned an area exceeding 170 acres in Thiruvanmiyur Village and the lands were acquired by the Tamil Nadu Housing Board. The family is presently left with only two properties, of which the petitioners' property is in question. In the year 1990, the petitioners gathered for the re-survey of the lands, in the schedule mentioned property situated in S.No.179/2 along with the adjoining properties of Kalakshetra Foundation, the third respondent herein, which was

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second respondent to sub-divide and demarcate the lands situate in T.S.No.1 in Block No.58, Thiruvanmiyur Village, Chennai District and issue a separate patta in respect of lands belonging to the petitioners admeasuring 21.12 acres in old Survey No.179/2 in T.S.No.1 in Block No.58, Thiruvanmiyur Village, Chennai District.

For Petitioners : Mr.P.S.Raman  
Senior counsel for M/s.Sathish Parasaran

For Respondents 1&2: Mr.M.Dig Vijay Pandian  
Additional Government Pleader

For Respondent 3 : Mr.B.N.Suchindran

For Respondent 4 : Mr.A.Vijayaraghavan

#### O R D E R

This writ petition came to be posted before this Court on a date specially ordered by the Honourable Chief Justice.

2.This writ petition is filed by the petitioners seeking a direction to the second respondent Tahsildar, Mylapore - Triplicane Taluk, to sub-divide and demarcate the lands situated in T.S.No.1 in Block No.58, Thiruvanmiyur Village, Chennai and issue separate patta in respect of the lands belonging to the petitioners measuring 21.12 acres in old Survey No.179/2, T.S.No.1 in Block No.58, Thiruvanmiyur Village, Chennai District.

3.When the writ petition came up for admission on 12.12.2007, notice of motion was ordered. Pending the writ petition, the third respondent was directed to maintain status-quo in respect of T.S.No.179/2. Subsequently, on 17.12.2008 this Court modified the order of status-quo to the effect that the third respondent shall carry out the repair works in the disputed building, but they should not put up any new construction till the disposal of the writ petition.

4.Aggrieved by the same, the third respondent filed a date stay application in M.P.No.1 of 2007 to vacate the interim order of status-quo dated 12.12.2007 and also M.P.No.1 of 2012 to vacate the status-quo order dated 12.12.2007 which was modified on 17.12.2008. However, both the applications are yet to be disposed of.

5.The petitioners also filed an application to implead the Government of India in M.P.No.2 of 2008 and the Union of India has also

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20 / 07 / 2012

CORAM

THE HONOURABLE MR. JUSTICE K. CHANDRU

W.P.NO.36902 OF 2007

AND CONNECTED MISCELLANEOUS PETITIONS

. P. Parvathi  
. Lakshmi  
. S. Saraswathy  
. P. Nandhini  
. P. Nethra  
. S. Venkatasubramanian

... Petitioners

versus

. State of Tamil Nadu  
Rep. by the Secretary to Government  
Revenue Department  
Secretariat, Fort St. George,  
Chennai - 600 009.

. The Tahsildar  
Mylapore - Triplicane Taluk  
Mylapore, Chennai - 600 004.

. M/s. Kalakshetra Foundation  
Rep. by its Director  
Kalakshetra Road,  
Besant Nagar, Chennai - 600 090.

. Union of India  
Rep. by Secretary to Government  
Ministry of Culture  
New Delhi - 110 001.  
(R4 impleaded as per order dated  
21.04.2008 in M.P.No.2 / 2008 in  
W.P.No.36902 / 2007)

... Respondents

AYER: Writ Petition filed under Article 226 of the Constitution of  
dia praying for the issuance of Writ of Mandamus, to direct the

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bh 006781 1



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..The Secretary to Government  
Government of Tamil Nadu  
Revenue Department  
Secretariat, Fort St. George, Chennai - 600 009.

.The Tahsildar  
Mylapore - Triplicane Taluk  
Mylapore, Chennai - 600 004.

.The Director  
M/s.Kalakshetra Foundation  
Kalakshetra Road,  
Besant Nagar, Chennai - 600 090.

The Secretary to Government  
Government of India  
Ministry of Culture  
New Delhi - 110 001.

cc to M/s. A.S. Vijayaraghavan, SCGSC, Sr. 43227  
cc to Mr. Satish Parasaran, Advocate, Sr. 43035  
cc to M/s. B.N. Suchindran, Advocate, Sr. 43279

W.P.NO.36902 OF 2007

(CO)

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bh 0067817



S.No.1 which was constructed over four decades had collapsed and the third respondent was in the process of reconstructing the same, when the order of status-quo passed by this Court was communicated to him. The third respondent has immediately stopped the work. The third respondent is running number of schools and other institutions which promote various forms of fine arts and cultural activities in which children and young ladies participate. There are about 1000 students studying in the Besant School and the College of Fine Arts, which about 200 students are residing in the campus. There are also students from the North Eastern States of India. If the compound wall is not erected, disgruntled persons and anti social elements might unlawfully trespass into the compound, wherein number of girl children are studying. There are also attempts made by the anti social elements to encroach into the property, for which action has been initiated by the Estate Officer for removing them.

12. In the light of these facts, the contention raised by the petitioners cannot be countenanced by this Court for more than one reason. The petitioners filed the present writ petition as if it were for title suit and thereafter seek for mutation of the revenue records by grant of separate patta. Even the will which is said to have been given to them, has also not been probated and the evidentiary value of such document is also doubtful. Further, as rightly contended by the respondents, in such circumstances, the only remedy open to the petitioners is to move the appropriate Civil Court and certainly in the guise of seeking for a direction to sub-divide the property, the petitioners cannot collaterally claim title over the property in question.

13. This Court is not inclined to entertain the writ petition and hence, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-  
Asst. Registrar.

/true copy/

  
Sub Asst. Registrar.

(56)

bh 006781 6



"13..... I state that mere a perusal of the records will clearly show that the Old S.No.179/2 of Thiruvanmiyur Village, measuring an extent of 21.12 acres along with certain other survey numbers were merged and was assigned with new survey number as T.S.No.1 Part, Block No.58 of Thiruvanmiyur Village. The entire property in T.S.No.1 is surrounded by a compound wall and is in physical possession and enjoyment of Kalakshetra Foundation. As the individuals are not in possession of the property, sub-division and separate registry in respect of the portion claimed by them was not effected by this office. The request of the petitioners could not be considered at this stage since they have not been in possession and enjoyment of the property claimed by them."

10. In the counter affidavit filed by the fourth respondent, namely the Central Government, apart from tracing the history, it was stated that the Parliament enacted the legislation that the property of Kalakshetra Foundation should vest with the third respondent. It was also stated that Kalakshetra Foundation had been in uninterrupted possession of the property for over fifty years and the said property along with other properties were acquired under different sale deeds by Smt. Rukmani Arundale, the erstwhile Founder of Kalakshetra and by another Society by name Besant Centenary Trust, which has also been merged with the erstwhile Kalakshetra under the order of this Court.

11. In the counter affidavit filed by the third respondent, the entire history of starting of Kalakshetra by Late Smt. Rukmani Arundale was set out. It was also stated that there was no record to show that the property in question was owned by K.K. Srinivasa Pillai, who was purportedly created the will. Even the said will was not probated and therefore, it has got no evidentiary value. The properties were purchased by Late Smt. Rukmani Arundale and Besant Centenary Trust under different sale deeds and the erstwhile Kalakshetra was in possession of the entire property for over 35 years. Even assuming that the petitioners' claim to have the possession of revenue records like patta or "A" Register, such rights were extinguished by the continuous and uninterrupted possession of such property by the third respondent for over several decades. The petitioners, if at all want to establish their right, they will have to move only the competent Civil Court. It was further stated that owing to the recent rains and due to erosion of soil, the compound wall running to an extent of 100 feet on the northern side of

(57) bh 0067815



declared as an Institution of national importance under the Kalakshetra Foundation Act, 1993 were assigned new T.S.No.1 and the petitioners' predecessor in title and the third respondent were shown as joint pattadars in respect of the entire extent of land in T.S.No.1, which included the schedule mentioned property in old S.No.179/2. The joint patta was lying in common with the third respondent. On a recent inspection of the schedule mentioned property, the petitioners were shocked to note that a few buildings of the third respondent have come up in the area and their genuine apprehension was that the third respondent might have put up construction in the schedule mentioned property, which belongs to the petitioners. Apart from the revenue records confirming the title of G. Srinivasan and after him the petitioners as his family members over the schedule mentioned property, the petitioners' title over the property also stood acknowledged by the fact that the property was not listed amongst the assets and properties declared to have been vested with the Board of Trustees of the third respondent, by virtue of Section 4 of the Kalakshetra Foundation Act, 1993 read with the Second Schedule to the Act. The petitioners sent a letter dated 07.03.2007 to the second respondent requesting to sub-divide their land from the joint holding in T.S.No.1 and to issue separate patta. Since the second respondent has not initiated any action towards issuance of patta in favour of the petitioners, the writ petition came to be filed.

9. In the counter affidavit filed by the second respondent Tehsildar it was stated that there was no material to show that the late K.K.Srinivasa Pillai was the owner of the property and there was also no evidence to show that the purported will was probated as required under the law. The lands were re-surveyed during the year 2000 and the entire S.No.179/2 along with adjoining properties of Kalakshetra Foundation was declared as an Institution of National Importance under Kalakshetra Foundation Act, 1993 and they were assigned new T.S.No.1. The petitioners have not explained as to what steps have been taken by them, to preserve, if they are the owners and interest holders of the land. There was no evidence to show that they were in possession and enjoyment of the property. All these facts cannot be gone into in a writ petition under Article 226 of the Constitution of India. If the petitioners want their title to be recognized, they will have to move the appropriate Civil Court. The petitioners' application for sub-division was considered and it was found that the property is in actual possession and enjoyment of the third respondent for a long period and since the petitioners were not in actual possession, enjoyment and occupation of the property, their claim was rejected on 29.11.2006, which was also communicated to them. However, they have not preferred any appeal. In this regard, in para 13 of the counter affidavit, it was averred as follows:



been added as party respondent, since by virtue of the Kalakshetra Foundation Act, 1993, all the assets and properties of the Kalakshetra Foundation have been vested with the Central Government under Section 4 of the Act.

6. In the meanwhile, the petitioners filed a contempt petition in C.P.No.143 of 2011 seeking to punish the respondent namely the Director of Kalakshetra Foundation for having disobeyed the order dated 12.12.2007. However, the contempt petition was dismissed on 06.06.2011 stating that the contempt petition need not be proceeded with. Since a counter affidavit has been filed, the matter was directed to be posted for final disposal.

7. On behalf of the third respondent Kalakshetra Foundation, a counter affidavit dated 22.01.2008 was filed. The fourth respondent namely, the Government of India has also filed a counter affidavit dated 16.03.2009. A counter affidavit dated 01.11.2010 was filed by the first respondent State adopting the counter affidavit dated 16.03.2010 filed by the second respondent Tahsildar. The third respondent filed a memo dated 05.02.2010 stating that they are the absolute owner of the land, which is the subject matter of the writ petition and they have been in uninterrupted and continuous possession of the said land for the past 50 years. The said memo came to be filed when the matter was referred for resolution of the dispute before the Permanent Lok Adalat. However, there was no scope for any settlement.

8. The case of the petitioners was that they are the absolute owners of the land situated in S.No.179/2, admeasuring an extent of 21.12 acres in Thiruvanmiyur Village, Chennai District. The revenue records duly reflected the petitioners' right, title and interest in the said property. The title of the said property remained with their family for several decades, as the property was initially owned by one K.K.Srinivasa Pillai, after whose demise in the year 1953, the property devolved under a will dated 02.07.1950 on his brother K.Ganapathia Pillai's son K.G.Srinivasan, who died in the year 1980, who is the father of the petitioners 1 to 3 and 6 and one Namaguru, whose widow and daughters are the petitioners 4 and 5. Apart from the said property, the petitioners' family initially owned an area exceeding 170 acres in Thiruvanmiyur Village and the lands were acquired by the Tamil Nadu Housing Board. The family is presently left with only two properties, of which the petitioners' property is in question. In the year 1990, the petitioners gathered for the re-survey of the lands in the schedule mentioned property situated in S.No.179/2 along with the adjoining properties of Kalakshetra Foundation, the third respondent herein, which was

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bh 0067813



second respondent to sub-divide and demarcate the lands situate in T.S.No.1 in Block No.58, Thiruvanmiyur Village, Chennai District and issue a separate patta in respect of lands belonging to the petitioners admeasuring 21.12 acres in old Survey No.179/2 in T.S.No.1 in Block No.58, Thiruvanmiyur Village, Chennai District.

For Petitioners : Mr.P.S.Raman  
Senior counsel for M/s.Sathish Parasaran

For Respondents 1&2: Mr.M.Dig Vijay Pandian  
Additional Government Pleader

For Respondent 3 : Mr.B.N.Suchindran

For Respondent 4 : Mr.A.Vijayaraghavan

O R D E R

This writ petition came to be posted before this Court on being specially ordered by the Honourable Chief Justice.

2.This writ petition is filed by the petitioners seeking a direction to the second respondent Tahsildar, Mylapore - Triplicane Taluk, to sub-divide and demarcate the lands situated in T.S.No.1 in Block No.58, Thiruvanmiyur Village, Chennai and issue separate patta in respect of the lands belonging to the petitioners measuring 21.12 acres in old Survey No.179/2, T.S.No.1 in Block No.58, Thiruvanmiyur Village, Chennai District.

3.When the writ petition came up for admission on 12.12.2007, notice of motion was ordered. Pending the writ petition, the third respondent was directed to maintain status-quo in respect of T.S.No.179/2. Subsequently, on 17.12.2008 this Court modified the order of status-quo to the effect that the third respondent shall carry out the repair works in the disputed building, but they should not put up any new construction till the disposal of the writ petition.

4.Aggrieved by the same, the third respondent filed a date stay application in M.P.No.1 of 2007 to vacate the interim order of status-quo dated 12.12.2007 and also M.P.No.1 of 2012 to vacate the status-quo order dated 12.12.2007 which was modified on 17.12.2008. However, both the applications are yet to be disposed of.

5.The petitioners also filed an application to implead the Union of India in M.P.No.2 of 2008 and the Union of India has also



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20 / 07 / 2012

CORAM

THE HONOURABLE MR. JUSTICE K. CHANDRU

W.P.NO.36902 OF 2007

AND CONNECTED MISCELLANEOUS PETITIONS

. P. Parvathi

. Lakshmi

. S. Saraswathy

. P. Nandhini

. P. Nethra

. S. Venkatasubramanian

... Petitioners

Versus

. State of Tamil Nadu

Rep. by the Secretary to Government  
Revenue Department  
Secretariat, Fort St. George,  
Chennai - 600 009.

. The Tahsildar

Mylapore - Triplicane Taluk  
Mylapore, Chennai - 600 004.

. M/s. Kalakshetra Foundation

Rep. by its Director  
Kalakshetra Road,  
Besant Nagar, Chennai - 600 090.

Union of India

Rep. by Secretary to Government  
Ministry of Culture  
New Delhi - 110 001.  
(R4 impleaded as per order dated  
21.04.2008 in M.P.No.2 / 2008 in  
W.P.No.36902 / 2007)

... Respondents

AYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus, to direct the

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bh 006781 1



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..The Secretary to Government  
Government of Tamil Nadu  
Revenue Department  
Secretariat, Fort St. George, Chennai - 600 009.

..The Tahsildar  
Mylapore - Triplicane Taluk  
Mylapore, Chennai - 600 004.

..The Director  
M/s.Kalakshetra Foundation  
Kalakshetra Road,  
Besant Nagar, Chennai - 600 090.

The Secretary to Government  
Government of India  
Ministry of Culture  
New Delhi - 110 001.

cc to M/s. A.S. Vijayaraghavan, SCGSC, Sr. 43227  
cc to Mr. Satish Parasaran, Advocate, Sr. 43035  
cc to M/s. B.N. Suchindran, Advocate, Sr. 43279

W.P.NO.36902 OF 2007

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bh 0067817



S.No.1 which was constructed over four decades had collapsed and the third respondent was in the process of reconstructing the same, when the order of status-quo passed by this Court was communicated to them. The third respondent has immediately stopped the work. The first respondent is running number of schools and other institutions which promote various forms of fine arts and cultural activities in which children and young ladies participate. There are about 1000 students studying in the Besant School and the College of Fine Arts, which about 200 students are residing in the campus. There are also students from the North Eastern States of India. If the compound wall is not erected, disgruntled persons and anti social elements might unlawfully trespass into the compound, wherein number of girl children are studying. There are also attempts made by the anti social elements to encroach into the property, for which action has been initiated by the Estate Officer for removing them.

12. In the light of these facts, the contention raised by the petitioners cannot be countenanced by this Court for more than one reason. The petitioners filed the present writ petition as if it were for title suit and thereafter seek for mutation of the revenue records by grant of separate patta. Even the will which is said to have been given to them, has also not been probated and the evidentiary value of such document is also doubtful. Further, as rightly contended by the respondents, in such circumstances, the only remedy open to the petitioners is to move the appropriate Civil Court and certainly in the guise of seeking for a direction to sub-divide the property, the petitioners cannot collaterally claim title over the property in question.

13. This Court is not inclined to entertain the writ petition and hence, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-  
Asst. Registrar.

/true copy/

  
Sub Asst. Registrar.

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bh 006781 6



"13..... I state that mere a perusal of the records will clearly show that the Old S.No.179/2 of Thiruvanmiyur Village, measuring an extent of 21.12 acres along with certain other survey numbers were merged and was assigned with new survey number as T.S.No.1 Part, Block No.58 of Thiruvanmiyur Village. The entire property in T.S.No.1 is surrounded by a compound wall and is in physical possession and enjoyment of Kalakshetra Foundation. As the individuals are not in possession of the property, sub-division and separate registry in respect of the portion claimed by them was not effected by this office. The request of the petitioners could not be considered at this stage since they have not been in possession and enjoyment of the property claimed by them."

10. In the counter affidavit filed by the fourth respondent, namely the Central Government, apart from tracing the history, it was stated that the Parliament enacted the legislation that the property of Kalakshetra Foundation should vest with the third respondent. It was also stated that Kalakshetra Foundation had been in uninterrupted possession of the property for over fifty years and the said property along with other properties were acquired under different sale deeds by Smt. Rukmani Arundale, the erstwhile Founder of Kalakshetra and by another Society by name Besant Centenary Trust, which has also been merged with the erstwhile Kalakshetra under the order of this Court.

11. In the counter affidavit filed by the third respondent, the entire history of starting of Kalakshetra by Late Smt. Rukmani Arundale was set out. It was also stated that there was no record to show that the property in question was owned by K.K. Srinivasa Pillai, who was purportedly created the will. Even the said will was not probated and therefore, it has got no evidentiary value. The properties were purchased by Late Smt. Rukmani Arundale and Besant Centenary Trust under different sale deeds and the erstwhile Kalakshetra was in possession of the entire property for over 35 years. Even assuming that the petitioners' claim to have the possession of revenue records like patta or "A" Register, such rights were extinguished by the continuous and uninterrupted possession of such property by the third respondent for over several decades. The petitioners, if at all want to establish their right, they will have to move only the competent Civil Court. It was further stated that owing to the recent rains and due to erosion of soil, the compound wall running to an extent of 100 feet on the northern side of



declared as an Institution of national importance under the Kalakshetra Foundation Act, 1993 were assigned new T.S.No.1 and the petitioners' predecessor in title and the third respondent were shown as joint pattadars in respect of the entire extent of land in T.S.No.1, which included the schedule mentioned property in old S.No.179/2. The joint patta was lying in common with the third respondent. On a recent inspection of the schedule mentioned property, the petitioners were shocked to note that a few buildings of the third respondent have come up in the area and their genuine apprehension was that the third respondent might have put up construction in the schedule mentioned property, which belongs to the petitioners. Apart from the revenue records confirming the title of G. Srinivasan and after him the petitioners as his family members over the schedule mentioned property, the petitioners' title over the property also stood acknowledged by the fact that the property was not listed amongst the assets and properties declared to have been vested with the Board of Trustees of the third respondent, by virtue of Section 4 of the Kalakshetra Foundation Act, 1993 read with the Second Schedule to the Act. The petitioners sent a letter dated 07.03.2007 to the second respondent requesting to sub-divide their land from the joint holding in T.S.No.1 and to issue separate patta. Since the second respondent has not initiated any action towards issuance of patta in favour of the petitioners, the writ petition came to be filed.

9. In the counter affidavit filed by the second respondent Tehsildar it was stated that there was no material to show that the late K.K. Srinivasa Pillai was the owner of the property and there was also no evidence to show that the purported will was probated as required under the law. The lands were re-surveyed during the year 1990 and the entire S.No.179/2 along with adjoining properties of Kalakshetra Foundation was declared as an Institution of National Importance under Kalakshetra Foundation Act, 1993 and they were assigned new T.S.No.1. The petitioners have not explained as to what steps have been taken by them, to preserve, if they are the owners and interest holders of the land. There was no evidence to show that they were in possession and enjoyment of the property. All these facts cannot be gone into in a writ petition under Article 226 of the Constitution of India. If the petitioners want their title to be recognized, they will have to move the appropriate Civil Court. The petitioners' application for sub-division was considered and it was found that the property is in actual possession and enjoyment of the third respondent for a long period and since the petitioners were not in actual possession, enjoyment and occupation of the property, their claim was rejected on 29.11.2006, which was also communicated to them. However, they have not preferred any appeal. In this regard, in para 13 of the counter affidavit, it was averred as follows:

(65)



been added as party respondent, since by virtue of the Kalakshetra Foundation Act, 1993, all the assets and properties of the Kalakshetra Foundation have been vested with the Central Government under Section 4 of the Act.

6. In the meanwhile, the petitioners filed a contempt petition in C.P.No.143 of 2011 seeking to punish the respondent namely the Director of Kalakshetra Foundation for having disobeyed the order dated 12.12.2007. However, the contempt petition was dismissed on 06.06.2011 stating that the contempt petition need not be proceeded with. Since a counter affidavit has been filed, the matter was directed to be posted for final disposal.

7. On behalf of the third respondent Kalakshetra Foundation, counter affidavit dated 22.01.2008 was filed. The fourth respondent namely, the Government of India has also filed a counter affidavit dated 16.03.2009. A counter affidavit dated 01.11.2010 was filed by the first respondent State adopting the counter affidavit dated 16.03.2010 filed by the second respondent Tahsildar. The third respondent filed a memo dated 05.02.2010 stating that they are the absolute owner of the land, which is the subject matter of the writ petition and they have been in uninterrupted and continuous possession of the said land for the past 50 years. The said memo came to be filed when the matter was referred for resolution of the dispute before the Permanent Lok Adalat. However, there was no scope for any settlement.

8. The case of the petitioners was that they are the absolute owners of the land situated in S.No.179/2, admeasuring an extent of 21.12 acres in Thiruvanmiyur Village, Chennai District. The revenue records duly reflected the petitioners' right, title and interest in the said property. The title of the said property remained with their family for several decades, as the property was initially owned by one K.K.Srinivasa Pillai, after whose demise in the year 1953, the property devolved under a will dated 02.07.1950 on his brother K.Ganapathia Pillai's son K.G.Srinivasan, who died in the year 1980, who is the father of the petitioners 1 to 3 and 6 and one Amaguru, whose widow and daughters are the petitioners 4 and 5. Apart from the said property, the petitioners' family initially owned an area exceeding 170 acres in Thiruvanmiyur Village and the lands were acquired by the Tamil Nadu Housing Board. The family is presently left with only two properties, of which the petitioners' property is in question. In the year 1990, the petitioners gathered for the re-survey of the lands in the schedule mentioned property situated in S.No.179/2 along with the adjoining properties of Kalakshetra Foundation, the third respondent herein, which was

(66)

bh 0067813



second respondent to sub-divide and demarcate the lands situate in T.S.No.1 in Block No.58, Thiruvanmiyur Village, Chennai District and issue a separate patta in respect of lands belonging to the petitioners admeasuring 21.12 acres in old Survey No.179/2 in T.S.No.1 in Block No.58, Thiruvanmiyur Village, Chennai District.

For Petitioners : Mr.P.S.Raman  
Senior counsel for M/s.Sathish Parasaran

For Respondents 1&2: Mr.M.Dig Vijay Pandian  
Additional Government Pleader

For Respondent 3 : Mr.B.N.Suchindran

For Respondent 4 : Mr.A.Vijayaraghavan

#### O R D E R

This writ petition came to be posted before this Court on 12.12.2007 specially ordered by the Honourable Chief Justice.

2.This writ petition is filed by the petitioners seeking a direction to the second respondent Tahsildar, Mylapore - Triplicane Taluk, to sub-divide and demarcate the lands situated in T.S.No.1 in Block No.58, Thiruvanmiyur Village, Chennai and issue separate patta in respect of the lands belonging to the petitioners measuring 21.12 acres in old Survey No.179/2, T.S.No.1 in Block No.58, Thiruvanmiyur Village, Chennai District.

3.When the writ petition came up for admission on 12.12.2007, notice of motion was ordered. Pending the writ petition, the third respondent was directed to maintain status-quo in respect of T.S.No.179/2. Subsequently, on 17.12.2008 this Court modified the order of status-quo to the effect that the third respondent shall carry out the repair works in the disputed building, but they should not put up any new construction till the disposal of the writ petition.

4.Aggrieved by the same, the third respondent filed a stay application in M.P.No.1 of 2007 to vacate the interim order of status-quo dated 12.12.2007 and also M.P.No.1 of 2012 to vacate the status-quo order dated 12.12.2007 which was modified on 17.12.2008. However, both the applications are yet to be disposed of.

5.The petitioners also filed an application to implead the Government of India in M.P.No.2 of 2008 and the Union of India has also

(67)



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20 / 07 / 2012

CORAM

THE HONOURABLE MR. JUSTICE K. CHANDRU

W.P.NO.36902 OF 2007

AND CONNECTED MISCELLANEOUS PETITIONS

. P. Parvathi  
. A. Lakshmi  
. Saraswathy  
. P. Nandhini  
. P. Nethra  
. S. Venkatasubramanian

... Petitioners

Versus

. State of Tamil Nadu  
Rep. by the Secretary to Government  
Revenue Department  
Secretariat, Fort St. George,  
Chennai - 600 009.

. The Tahsildar  
Mylapore - Triplicane Taluk  
Mylapore, Chennai - 600 004.

. P. S. Kalakshetra Foundation  
Rep. by its Director  
Kalakshetra Road,  
Besant Nagar, Chennai - 600 090.

Union of India  
Rep. by Secretary to Government  
Ministry of Culture  
New Delhi - 110 001.  
(R4 impleaded as per order dated  
21.04.2008 in M.P.No.2 / 2008 in  
W.P.No.36902 / 2007)

... Respondents

AYER: Writ Petition filed under Article 226 of the Constitution of  
dia praying for the issuance of Writ of Mandamus, to direct the

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bh 006781 1



WP. 36902/07

HIGH COURT OF JUDICATURE	
MADRAS.	
S.R. No. ....	H 3279/12
Carbon Copy application	
made.....	23/7/2002
Application Returned.....	200
Application Represented.....	200
Copy made ready.....	23/8/2002
Copy Delivered.....	6/8/2002
Section 0	
Current Sec.	

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TO

1. The Secretary to Government  
Government of Tamil Nadu  
Revenue Department  
Secretariat, Fort St. George, Chennai - 600 009.
2. The Tahsildar  
Mylapore - Triplicane Taluk  
Mylapore, Chennai - 600 004.
3. The Director  
M/s. Kalakshetra Foundation  
Kalakshetra Road,  
Besant Nagar, Chennai - 600 090.
4. The Secretary to Government  
Government of India  
Ministry of Culture  
New Delhi - 110 001.

- cc to M/s. A.S. Vijayaraghavan, SCGSC, Sr. 43227
- cc to Mr. Satish Parasaran, Advocate, Sr. 43035
- cc to M/s. B.N. Suchindran, Advocate, Sr. 43279

W.P.NO.36902 OF 2007

IG (CO)  
k 31/7

70

bh 0067817



.S.No.1 which was constructed over four decades had collapsed and the third respondent was in the process of reconstructing the same, when the order of status-quo passed by this Court was communicated to him. The third respondent has immediately stopped the work. The third respondent is running number of schools and other institutions to promote various forms of fine arts and cultural activities in which children and young ladies participates. There are about 1000 students studying in the Besant School and the College of Fine Arts, of which about 200 students are residing in the campus. There are also students from the North Eastern States of India. If the compound wall is not erected, disgruntled persons and anti social elements might unlawfully trespass into the compound, wherein number of girl children are studying. There are also attempts made by the anti social elements to encroach into the property, for which action has been initiated by the Estate Officer for removing them.

12. In the light of these facts, the contention raised by the petitioners cannot be countenanced by this Court for more than one reason. The petitioners filed the present writ petition as if it is for title suit and thereafter seek for mutation of the revenue records by grant of separate patta. Even the will which is said to have been given to them, has also not been probated and the evidentiary value of such document is also doubtful. Further, as rightly contended by the respondents, in such circumstances, the only remedy open to the petitioners is to move the appropriate Civil Court and certainly in the guise of seeking for a direction to sub-divide the property, the petitioners cannot collaterally claim title over the property in question.

13. This Court is not inclined to entertain the writ petition and hence, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-  
Asst. Registrar.

/true copy/

  
Sub Asst. Registrar.

(71)  
bh 0067816



"13..... I state that mere a perusal of the records will clearly show that the Old S.No.179/2 of Thiruvanniyur Village, measuring an extent of 21.12 acres along with certain other survey numbers were merged and was assigned with new survey number as T.S.No.1 Part, Block No.58 of Thiruvanniyur Village. The entire property in T.S.No.1 is surrounded by a compound wall and is in physical possession and enjoyment of Kalakshetra Foundation. As the individuals are not in possession of the property, sub-division and separate registry in respect of the portion claimed by them was not effected by this office. The request of the petitioners could not be considered at this stage since they have not been in possession and enjoyment of the property claimed by them."

10. In the counter affidavit filed by the fourth respondent, namely the Central Government, apart from tracing the history, it was stated that the Parliament enacted the legislation that the property of Kalakshetra Foundation should vest with the third respondent. It was also stated that Kalakshetra Foundation had been in uninterrupted possession of the property for over fifty years and the said property along with other properties were acquired under different sale deeds by Smt. Rukmani Arundale, the erstwhile Founder of Kalakshetra and by another Society by name Besant Centenary Trust, which has also been merged with the erstwhile Kalakshetra under the order of this Court.

11. In the counter affidavit filed by the third respondent, the entire history of starting of Kalakshetra by Late Smt. Rukmani Arundale was set out. It was also stated that there was no record to show that the property in question was owned by K.K. Srinivasa Pillai, who was purportedly created the will. Even the said will was not probated and therefore, it has got no evidentiary value. The properties were purchased by Late Smt. Rukmani Arundale and Besant Centenary Trust under different sale deeds and the erstwhile Kalakshetra was in possession of the entire property for over 35 years. Even assuming that the petitioners' claim to have the possession of revenue records like patta or "A" Register, such rights were extinguished by the continuous and uninterrupted possession of such property by the third respondent for over several decades. The petitioners, if at all want to establish their right, they will have to move only the competent Civil Court. It was further stated that owing to the recent rains and due to erosion of soil, the compound wall running to an extent of 100 feet on the northern side of

(72)  
bh 0067815



declared as an Institution of national importance under the Kalakshetra Foundation Act, 1993 were assigned new T.S.No.1 and the petitioners' predecessor in title and the third respondent were shown as joint pattadars in respect of the entire extent of land in T.S.No.1, which included the schedule mentioned property in old S.No.179/2. The joint patta was lying in common with the third respondent. On a recent inspection of the schedule mentioned property, the petitioners were shocked to note that a few buildings of the third respondent have come up in the area and their genuine apprehension was that the third respondent might have put up construction in the schedule mentioned property, which belongs to the petitioners. Apart from the revenue records confirming the title of G.Srinivasan and after him the petitioners as his family members over the schedule mentioned property, the petitioners' title over the property also stood acknowledged by the fact that the property was not listed amongst the assets and properties declared to have been vested with the Board of Trustees of the third respondent, by virtue of Section 4 of the Kalakshetra Foundation Act, 1993 read with the Second Schedule to the Act. The petitioners sent a letter dated 07.03.2007 to the second respondent requesting to sub-divide their land from the joint holding in T.S.No.1 and to issue separate patta. Since the second respondent has not initiated any action towards issuance of patta in favour of the petitioners, the writ petition came to be filed.

9. In the counter affidavit filed by the second respondent Tehsildar it was stated that there was no material to show that the Late K.K.Srinivasa Pillai was the owner of the property and there was also no evidence to show that the purported will was probated as required under the law. The lands were re-surveyed during the year 1990 and the entire S.No.179/2 along with adjoining properties of Kalakshetra Foundation was declared as an Institution of National importance under Kalakshetra Foundation Act, 1993 and they were assigned new T.S.No.1. The petitioners have not explained as to what steps have been taken by them, to preserve, if they are the owners and interest holders of the land. There was no evidence to show that they were in possession and enjoyment of the property. All these facts cannot be gone into in a writ petition under Article 226 of the Constitution of India. If the petitioners want their title to be recognized, they will have to move the appropriate Civil Court. The petitioners' application for sub-division was considered and it was found that the property is in actual possession and enjoyment of the third respondent for a long period and since the petitioners were not in actual possession, enjoyment and occupation of the property, their claim was rejected on 29.11.2006, which was also communicated to them. However, they have not preferred any appeal. In this regard, in para 13 of the counter affidavit, it was averred as follows:

(75)

bh 0067814



been added as party respondent, since by virtue of the Kalakshetra Foundation Act, 1993, all the assets and properties of the Kalakshetra Foundation have been vested with the Central Government under Section 4 of the Act.

6. In the meanwhile, the petitioners filed a contempt petition in C.P.No.143 of 2011 seeking to punish the respondent namely the Director of Kalakshetra Foundation for having disobeyed the order dated 12.12.2007. However, the contempt petitioner was dismissed on 06.06.2011 stating that the contempt petition need not be proceeded with. Since a counter affidavit has been filed, the matter was directed to be posted for final disposal.

7. On behalf of the third respondent Kalakshetra Foundation, counter affidavit dated 22.01.2008 was filed. The fourth respondent namely, the Government of India has also filed a counter affidavit dated 15.03.2009. A counter affidavit dated 01.11.2010 was filed by the first respondent State adopting the counter affidavit dated 19.03.2010 filed by the second respondent Tehsildar. The third respondent filed a memo dated 05.02.2010 stating that they are the absolute owner of the land, which is the subject matter of the writ petition and they have been in uninterrupted and continuous possession of the said land for the past 50 years. The said memo came to be filed when the matter was referred for resolution of the dispute before the Permanent Lok Adalat. However, there was no scope for any settlement.

8. The case of the petitioners was that they are the absolute owners of the land situated in S.No.179/2, admeasuring an extent of 21.12 acres in Thiruvanmiyur Village, Chennai District. The revenue records duly reflected the petitioners' right, title and interest in the said property. The title of the said property remained with their family for several decades, as the property was initially owned by one K.K.Srinivasa Pillai, after whose demise in the year 1953, the property devolved under a will dated 02.07.1950 on his brother K.Ganapathia Pillai's son K.G.Srinivasan, who died in the year 1980, who is the father of the petitioners 1 to 3 and 6 and one Aramaguru, whose widow and daughters are the petitioners 4 and 5. Apart from the said property, the petitioners' family initially owned an area exceeding 170 acres in Thiruvanmiyur Village and the lands were acquired by the Tamil Nadu Housing Board. The family is presently left with only two properties, of which the petitioners' property is in question. In the year 1990, the petitioners gathered during the re-survey of the lands, in the schedule mentioned property situated in S.No.179/2 along with the adjoining properties of Kalakshetra Foundation, the third respondent herein, which was

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bh 0067813



second respondent to sub-divide and demarcate the lands situate in T.S.No.1 in Block No.58, Thiruvanmiyur Village, Chennai District and issue a separate patta in respect of lands belonging to the petitioners admeasuring 21.12 acres in old Survey No.179/2 in T.S.No.1 in Block No.58, Thiruvanmiyur Village, Chennai District.

For Petitioners : Mr.P.S.Raman  
Senior counsel for M/s.Sathish Parasaran

For Respondents 1&2: Mr.M.Dig Vijay Pandian  
Additional Government Pleader

For Respondent 3 : Mr.B.N.Suchindran

For Respondent 4 : Mr.A.Vijayaraghavan

O R D E R

This writ petition came to be posted before this Court on being specially ordered by the Honourable Chief Justice.

2.This writ petition is filed by the petitioners seeking for a direction to the second respondent Tahsildar, Mylapore - Triplicane Taluk, to sub-divide and demarcate the lands situated in T.S.No.1 in Block No.58, Thiruvanmiyur Village, Chennai and issue separate patta in respect of the lands belonging to the petitioners admeasuring 21.12 acres in old Survey No.179/2, T.S.No.1 in Block No.58, Thiruvanmiyur Village, Chennai District.

3.When the writ petition came up for admission on 12.12.2007, notice of motion was ordered. Pending the writ petition, the third respondent was directed to maintain status-quo in respect of S.No.179/2. Subsequently, on 17.12.2008 this Court modified the order of status-quo to the effect that the third respondent shall carry out the repair works in the disputed building, but they should not put up any new construction till the disposal of the writ petition.

4.Aggrieved by the same, the third respondent filed a vacate stay application in M.P.No.1 of 2007 to vacate the interim order of status-quo dated 12.12.2007 and also M.P.No.1 of 2012 to vacate the status-quo order dated 12.12.2007 which was modified on 17.12.2008. However, both the applications are yet to be disposed of.

5.The petitioners also filed an application to implead the Union of India in M.P.No.2 of 2008 and the Union of India has also

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bh 0067812



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20 / 07 / 2012

CORAM

THE HONOURABLE MR. JUSTICE K. CHANDRU

W.P.NO.36902 OF 2007

AND CONNECTED MISCELLANEOUS PETITIONS

- 1.P.Parvathi
- 2.A.Lakshmi
- 3.S.Saraswathy
- 4.P.Nandhini
- 5.P.Nethra
- 6.S.Venkatasubramanian

... Petitioners

versus

- 1.State of Tamil Nadu  
Rep. by the Secretary to Government  
Revenue Department  
Secretariat, Fort St. George,  
Chennai - 600 009.
- 2.The Tahsildar  
Mylapore - Triplicane Taluk  
Mylapore, Chennai - 600 004.
- M/s.Kalakshetra Foundation  
Rep. by its Director  
Kalakshetra Road,  
Besant Nagar, Chennai - 600 090.
- 4.Union of India  
Rep. by Secretary to Government  
Ministry of Culture  
New Delhi - 110 001.  
(R4 impleaded as per order dated  
21.04.2008 in M.P.No.2 / 2008 in  
W.P.No.36902 / 2007)

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus, to direct the

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bh 0067811



TO

..The Secretary to Government  
Government of Tamil Nadu  
Revenue Department  
Secretariat, Fort St. George, Chennai - 600 009.

.The Tahsildar  
Mylapore - Triplicane Taluk  
Mylapore, Chennai - 600 004.

.The Director  
M/s.Kalakshetra Foundation  
Kalakshetra Road,  
Besant Nagar, Chennai - 600 090.

The Secretary to Government  
Government of India  
Ministry of Culture  
New Delhi - 110 001.

cc to M/s. A.S. Vijayaraghavan, SCGSC, Sr. 43227

cc to Mr. Satish Parasaran, Advocate, Sr. 43035

cc to M/s. B.N. Suchindran, Advocate, Sr. 43279

W.P.NO.36902 OF 2007

(CO)

31/7

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bh 0067817



S.No.1 which was constructed over four decades had collapsed and the third respondent was in the process of reconstructing the same, when the order of status-quo passed by this Court was communicated to him. The third respondent has immediately stopped the work. The third respondent is running number of schools and other institutions which promote various forms of fine arts and cultural activities in which children and young ladies participate. There are about 1000 students studying in the Besant School and the College of Fine Arts, which about 200 students are residing in the campus. There are also students from the North Eastern States of India. If the compound wall is not erected, disgruntled persons and anti social elements might unlawfully trespass into the compound, wherein number of girl children are studying. There are also attempts made by the anti social elements to encroach into the property, for which action has been initiated by the Estate Officer for removing them.

12. In the light of these facts, the contention raised by the petitioners cannot be countenanced by this Court for more than one reason. The petitioners filed the present writ petition as if it were for title suit and thereafter seek for mutation of the revenue records by grant of separate patta. Even the will which is said to have been given to them, has also not been probated and the evidentiary value of such document is also doubtful. Further, as rightly contended by the respondents, in such circumstances, the only remedy open to the petitioners is to move the appropriate Civil Court and certainly in the guise of seeking for a direction to sub-divide the property, the petitioners cannot collaterally claim title over the property in question.

13. This Court is not inclined to entertain the writ petition and hence, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-  
Asst. Registrar.

/true copy/

  
Sub Asst. Registrar.

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bh 006781 6



"13..... I state that mere a perusal of the records will clearly show that the Old S.No.179/2 of Thiruvanmiyur Village, measuring an extent of 21.12 acres along with certain other survey numbers were merged and was assigned with new survey number as T.S.No.1 Part, Block No.58 of Thiruvanmiyur Village. The entire property in T.S.No.1 is surrounded by a compound wall and is in physical possession and enjoyment of Kalakshetra Foundation. As the individuals are not in possession of the property, sub-division and separate registry in respect of the portion claimed by them was not effected by this office. The request of the petitioners could not be considered at this stage since they have not been in possession and enjoyment of the property claimed by them."

10. In the counter affidavit filed by the fourth respondent, namely the Central Government, apart from tracing the history, it was stated that the Parliament enacted the legislation that the property of Kalakshetra Foundation should vest with the third respondent. It was also stated that Kalakshetra Foundation had been in uninterrupted possession of the property for over fifty years and the said property along with other properties were acquired under different sale deeds by Smt. Rukmani Arundale, the erstwhile Founder of Kalakshetra and by another Society by name Besant Centenary Trust, which has also been merged with the erstwhile Kalakshetra under the order of this Court.

11. In the counter affidavit filed by the third respondent, the entire history of starting of Kalakshetra by Late Smt. Rukmani Arundale was set out. It was also stated that there was no record to show that the property in question was owned by K.K. Srinivasa Pillai, who was purportedly created the will. Even the said will was not probated and therefore, it has got no evidentiary value. The properties were purchased by Late Smt. Rukmani Arundale and Besant Centenary Trust under different sale deeds and the erstwhile Kalakshetra was in possession of the entire property for over 35 years. Even assuming that the petitioners' claim to have the possession of revenue records like patta or "A" Register, such rights were extinguished by the continuous and uninterrupted possession of such property by the third respondent for over several decades. The petitioners, if at all want to establish their right, they will have to move only the competent Civil Court. It was further stated that owing to the recent rains and due to erosion of soil, the compound wall running to an extent of 100 feet on the northern side of

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bh 0067815



declared as an Institution of national importance under the Kalakshetra Foundation Act, 1993 were assigned new T.S.No.1 and the petitioners' predecessor in title and the third respondent were shown as joint pattadars in respect of the entire extent of land in T.S.No.1, which included the schedule mentioned property in old S.No.179/2. The joint patta was lying in common with the third respondent. On a recent inspection of the schedule mentioned property, the petitioners were shocked to note that a few buildings of the third respondent have come up in the area and their genuine apprehension was that the third respondent might have put up construction in the schedule mentioned property, which belongs to the petitioners. Apart from the revenue records confirming the title of Srinivasan and after him the petitioners as his family members over the schedule mentioned property, the petitioners' title over the property also stood acknowledged by the fact that the property was not listed amongst the assets and properties declared to have been vested with the Board of Trustees of the third respondent, by virtue of Section 4 of the Kalakshetra Foundation Act, 1993 read with the Second Schedule to the Act. The petitioners sent a letter dated 07.03.2007 to the second respondent requesting to sub-divide their land from the joint holding in T.S.No.1 and to issue separate patta. Since the second respondent has not initiated any action towards issuance of patta in favour of the petitioners, the writ petition came to be filed.

9. In the counter affidavit filed by the second respondent Tahsildar it was stated that there was no material to show that the late K.K.Srinivasa Pillai was the owner of the property and there was also no evidence to show that the purported will was probated as required under the law. The lands were re-surveyed during the year 2000 and the entire S.No.179/2 along with adjoining properties of Kalakshetra Foundation was declared as an Institution of National Importance under Kalakshetra Foundation Act, 1993 and they were assigned new T.S.No.1. The petitioners have not explained as to what steps have been taken by them, to preserve, if they are the owners and interest holders of the land. There was no evidence to show that they were in possession and enjoyment of the property. All these facts cannot be gone into in a writ petition under Article 226 of the Constitution of India. If the petitioners want their title to be recognized, they will have to move the appropriate Civil Court. The petitioners' application for sub-division was considered and it was found that the property is in actual possession and enjoyment of the third respondent for a long period and since the petitioners were not in actual possession, enjoyment and occupation of the property, their claim was rejected on 29.11.2006, which was also communicated to them. However, they have not preferred any appeal. In this regard, in para 13 of the counter affidavit, it was averred as follows:





been added as party respondent, since by virtue of the Kalakshetra Foundation Act, 1993, all the assets and properties of the Kalakshetra Foundation have been vested with the Central Government under Section 4 of the Act.

6. In the meanwhile, the petitioners filed a contempt petition in C.P.No.143 of 2011 seeking to punish the respondent namely the Director of Kalakshetra Foundation for having disobeyed the order dated 12.12.2007. However, the contempt petition was dismissed on 06.06.2011 stating that the contempt petition need not be proceeded with. Since a counter affidavit has been filed, the matter was directed to be posted for final disposal.

7. On behalf of the third respondent Kalakshetra Foundation, counter affidavit dated 22.01.2008 was filed. The fourth respondent namely, the Government of India has also filed a counter affidavit dated 16.03.2009. A counter affidavit dated 01.11.2010 was filed by the first respondent State adopting the counter affidavit dated 16.03.2010 filed by the second respondent Tahsildar. The third respondent filed a memo dated 05.02.2010 stating that they are the absolute owner of the land, which is the subject matter of the writ petition and they have been in uninterrupted and continuous possession of the said land for the past 50 years. The said memo came to be filed when the matter was referred for resolution of the dispute before the Permanent Lok Adalat. However, there was no scope for any settlement.

8. The case of the petitioners was that they are the absolute owners of the land situated in S.No.179/2, admeasuring an extent of 21.12 acres in Thiruvanmiyur Village, Chennai District. The revenue records duly reflected the petitioners' right, title and interest in the said property. The title of the said property remained with their family for several decades, as the property was initially owned by one K.K.Srinivasa Pillai, after whose demise in the year 1953, the property devolved under a will dated 02.07.1950 on his brother K.Ganapathia Pillai's son K.G.Srinivasan, who died in the year 1980, who is the father of the petitioners 1 to 3 and 6 and one Amaguru, whose widow and daughters are the petitioners 4 and 5. Apart from the said property, the petitioners' family initially owned an area exceeding 170 acres in Thiruvanmiyur Village and the lands were acquired by the Tamil Nadu Housing Board. The family is presently left with only two properties, of which the petitioners' property is in question. In the year 1990, the petitioners gathered for the re-survey of the lands, in the schedule mentioned property situated in S.No.179/2 along with the adjoining properties of Kalakshetra Foundation, the third respondent herein, which was



bh 0067813



second respondent to sub-divide and demarcate the lands situate in T.S.No.1 in Block No.58, Thiruvanmiyur Village, Chennai District and issue a separate patta in respect of lands belonging to the petitioners admeasuring 21.12 acres in old Survey No.179/2 in T.S.No.1 in Block No.58, Thiruvanmiyur Village, Chennai District.

For Petitioners : Mr.P.S.Raman  
Senior counsel for M/s.Sathish Parasaran

For Respondents 1&2: Mr.M.Dig Vijay Pandian  
Additional Government Pleader

For Respondent 3 : Mr.B.N.Suchindran

For Respondent 4 : Mr.A.Vijayaraghavan

#### O R D E R

This writ petition came to be posted before this Court on 12.12.2007 specially ordered by the Honourable Chief Justice.

2.This writ petition is filed by the petitioners seeking for a direction to the second respondent Tahsildar, Mylapore - Triplicane Taluk, to sub-divide and demarcate the lands situated in T.S.No.1 in Block No.58, Thiruvanmiyur Village, Chennai and issue separate patta in respect of the lands belonging to the petitioners measuring 21.12 acres in old Survey No.179/2, T.S.No.1 in Block No.58, Thiruvanmiyur Village, Chennai District.

3.When the writ petition came up for admission on 12.12.2007, notice of motion was ordered. Pending the writ petition, the third respondent was directed to maintain status-quo in respect of T.S.No.179/2. Subsequently, on 17.12.2008 this Court modified the order of status-quo to the effect that the third respondent shall carry out the repair works in the disputed building, but they should not put up any new construction till the disposal of the writ petition.

4.Aggrieved by the same, the third respondent filed a date stay application in M.P.No.1 of 2007 to vacate the interim order of status-quo dated 12.12.2007 and also M.P.No.1 of 2012 to vacate the status-quo order dated 12.12.2007 which was modified on 17.12.2008. However, both the applications are yet to be disposed of.

5.The petitioners also filed an application to implead the Government of India in M.P.No.2 of 2008 and the Union of India has also



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20 / 07 / 2012

CORAM

THE HONOURABLE MR. JUSTICE K. CHANDRU

W.P.NO.36902 OF 2007

AND CONNECTED MISCELLANEOUS PETITIONS

. P. Parvathi  
. Lakshmi  
. S. Saraswathy  
. P. Nandhini  
. P. Nethra  
. S. Venkatasubramanian ... Petitioners

versus

. State of Tamil Nadu  
Rep. by the Secretary to Government  
Revenue Department  
Secretariat, Fort St. George,  
Chennai - 600 009.

. The Tahsildar  
Mylapore - Triplicane Taluk  
Mylapore, Chennai - 600 004.

. M/s. Kalakshetra Foundation  
Rep. by its Director  
Kalakshetra Road,  
Besant Nagar, Chennai - 600 090.

. Union of India  
Rep. by Secretary to Government  
Ministry of Culture  
New Delhi - 110 001.  
(R4 impleaded as per order dated  
21.04.2008 in M.P.No.2 / 2008 in  
W.P.No.36902 / 2007) ... Respondents

AYER: Writ Petition filed under Article 226 of the Constitution of  
dia praying for the issuance of Writ of Mandamus, to direct the



bh 006781 1



TO

..The Secretary to Government  
Government of Tamil Nadu  
Revenue Department  
Secretariat, Fort St. George, Chennai - 600 009.

.The Tahsildar  
Mylapore - Triplicane Taluk  
Mylapore, Chennai - 600 004.

.The Director  
M/s.Kalakshetra Foundation  
Kalakshetra Road,  
Besant Nagar, Chennai - 600 090.

The Secretary to Government  
Government of India  
Ministry of Culture  
New Delhi - 110 001.

cc to M/s. A.S. Vijayaraghavan, SCGSC, Sr. 43227  
cc to Mr. Satish Parasaran, Advocate, Sr. 43035  
cc to M/s. B.N. Suchindran, Advocate, Sr. 43279

W.P.NO.36902 OF 2007

(CO)  
31/7

84

bh 0067817



S.No.1 which was constructed over four decades had collapsed and the third respondent was in the process of reconstructing the same, when the order of status-quo passed by this Court was communicated to them. The third respondent has immediately stopped the work. The first respondent is running number of schools and other institutions which promote various forms of fine arts and cultural activities in which children and young ladies participate. There are about 1000 students studying in the Besant School and the College of Fine Arts, which about 200 students are residing in the campus. There are also students from the North Eastern States of India. If the compound wall is not erected, disgruntled persons and anti social elements might unlawfully trespass into the compound, wherein number of girl children are studying. There are also attempts made by the anti social elements to encroach into the property, for which action has been initiated by the Estate Officer for removing them.

12. In the light of these facts, the contention raised by the petitioners cannot be countenanced by this Court for more than one reason. The petitioners filed the present writ petition as if it were for title suit and thereafter seek for mutation of the revenue records by grant of separate patta. Even the will which is said to have been given to them, has also not been probated and the evidentiary value of such document is also doubtful. Further, as strongly contended by the respondents, in such circumstances, the only remedy open to the petitioners is to move the appropriate Civil Court and certainly in the guise of seeking for a direction to sub-divide the property, the petitioners cannot collaterally claim title over the property in question.

13. This Court is not inclined to entertain the writ petition and hence, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-  
Asst. Registrar.

/true copy/

  
Sub Asst. Registrar.



"13..... I state that mere a perusal of the records will clearly show that the Old S.No.179/2 of Thiruvanmiyur Village, measuring an extent of 21.12 acres along with certain other survey numbers were merged and was assigned with new survey number as T.S.No.1 Part, Block No.58 of Thiruvanmiyur Village. The entire property in T.S.No.1 is surrounded by a compound wall and is in physical possession and enjoyment of Kalakshetra Foundation. As the individuals are not in possession of the property, sub-division and separate registry in respect of the portion claimed by them was not effected by this office. The request of the petitioners could not be considered at this stage since they have not been in possession and enjoyment of the property claimed by them."

10. In the counter affidavit filed by the fourth respondent, namely the Central Government, apart from tracing the history, it was stated that the Parliament enacted the legislation that the property of Kalakshetra Foundation should vest with the third respondent. It was also stated that Kalakshetra Foundation had been in uninterrupted possession of the property for over fifty years and the said property along with other properties were acquired under different sale deeds by Smt. Rukmani Arundale, the erstwhile Founder of Kalakshetra and by another Society by name Besant Centenary Trust, which has also been merged with the erstwhile Kalakshetra under the order of this Court.

11. In the counter affidavit filed by the third respondent, the entire history of starting of Kalakshetra by Late Smt. Rukmani Arundale was set out. It was also stated that there was no record to show that the property in question was owned by K.K. Srinivasa Pillai, who was purportedly created the will. Even the said will was not probated and therefore, it has got no evidentiary value. The properties were purchased by Late Smt. Rukmani Arundale and Besant Centenary Trust under different sale deeds and the erstwhile Kalakshetra was in possession of the entire property for over 35 years. Even assuming that the petitioners' claim to have the possession of revenue records like patta or "A" Register, such rights were extinguished by the continuous and uninterrupted possession of such property by the third respondent for over several decades. The petitioners, if at all want to establish their right, they will have to move only the competent Civil Court. It was further stated that owing to the recent rains and due to erosion of soil, the compound wall running to an extent of 100 feet on the northern side of

bh 0067815



declared as an Institution of national importance under the Kalakshetra Foundation Act, 1993 were assigned new T.S.No.1 and the petitioners' predecessor in title and the third respondent were shown as joint pattadars in respect of the entire extent of land in T.S.No.1, which included the schedule mentioned property in old S.No.179/2. The joint patta was lying in common with the third respondent. On a recent inspection of the schedule mentioned property, the petitioners were shocked to note that a few buildings of the third respondent have come up in the area and their genuine apprehension was that the third respondent might have put up construction in the schedule mentioned property, which belongs to the petitioners. Apart from the revenue records confirming the title of G Srinivasan and after him the petitioners as his family members over the schedule mentioned property, the petitioners' title over the property also stood acknowledged by the fact that the property was not listed amongst the assets and properties declared to have been vested with the Board of Trustees of the third respondent, by virtue of Section 4 of the Kalakshetra Foundation Act, 1993 read with the Second Schedule to the Act. The petitioners sent a letter dated 07.03.2007 to the second respondent requesting to sub-divide their land from the joint holding in T.S.No.1 and to issue separate patta. Since the second respondent has not initiated any action towards issuance of patta in favour of the petitioners, the writ petition came to be filed.

9. In the counter affidavit filed by the second respondent Tahsildar it was stated that there was no material to show that the late K.K.Srinivasa Pillai was the owner of the property and there was also no evidence to show that the purported will was probated as required under the law. The lands were re-surveyed during the year 2000 and the entire S.No.179/2 along with adjoining properties of Kalakshetra Foundation was declared as an Institution of National importance under Kalakshetra Foundation Act, 1993 and they were assigned new T.S.No.1. The petitioners have not explained as to what steps have been taken by them, to preserve, if they are the owners and interest holders of the land. There was no evidence to show that they were in possession and enjoyment of the property. All these facts cannot be gone into in a writ petition under Article 226 of the Constitution of India. If the petitioners want their title to be recognized, they will have to move the appropriate Civil Court. The petitioners' application for sub-division was considered and it was found that the property is in actual possession and enjoyment of the third respondent for a long period and since the petitioners were not in actual possession, enjoyment and occupation of the property, their claim was rejected on 29.11.2006, which was also communicated to them. However, they have not preferred any appeal. In this regard, in para 13 of the counter affidavit, it was averred as follows:



been added as party respondent, since by virtue of the Kalakshetra Foundation Act, 1993, all the assets and properties of the Kalakshetra Foundation have been vested with the Central Government under Section 4 of the Act.

6. In the meanwhile, the petitioners filed a contempt petition in C.P.No.143 of 2011 seeking to punish the respondent namely the Director of Kalakshetra Foundation for having disobeyed the order dated 12.12.2007. However, the contempt petition was dismissed on 06.06.2011 stating that the contempt petition need not be proceeded with. Since a counter affidavit has been filed, the matter was directed to be posted for final disposal.

7. On behalf of the third respondent Kalakshetra Foundation, a counter affidavit dated 22.01.2008 was filed. The fourth respondent namely, the Government of India has also filed a counter affidavit dated 15.03.2009. A counter affidavit dated 01.11.2010 was filed by the first respondent State adopting the counter affidavit dated 15.03.2010 filed by the second respondent Tahsildar. The third respondent filed a memo dated 05.02.2010 stating that they are the absolute owner of the land, which is the subject matter of the writ petition and they have been in uninterrupted and continuous possession of the said land for the past 50 years. The said memo came to be filed when the matter was referred for resolution of the dispute before the Permanent Lok Adalat. However, there was no scope for any settlement.

8. The case of the petitioners was that they are the absolute owners of the land situated in S.No.179/2, admeasuring an extent of 21.12 acres in Thiruvanmiyur Village, Chennai District. The revenue records duly reflected the petitioners' right, title and interest in the said property. The title of the said property remained with their family for several decades, as the property was initially owned by one K.K.Srinivasa Pillai, after whose demise in the year 1953, the property devolved under a will dated 02.07.1950 on his brother K.Ganapathia Pillai's son K.G.Srinivasan, who died in the year 1980, who is the father of the petitioners 1 to 3 and 6 and one Amaguru, whose widow and daughters are the petitioners 4 and 5. Apart from the said property, the petitioners' family initially owned an area exceeding 170 acres in Thiruvanmiyur Village and the lands were acquired by the Tamil Nadu Housing Board. The family is presently left with only two properties, of which the petitioners' property is in question. In the year 1990, the petitioners gathered for the re-survey of the lands, in the schedule mentioned property situated in S.No.179/2 along with the adjoining properties of Kalakshetra Foundation, the third respondent herein, which was



second respondent to sub-divide and demarcate the lands situate in T.S.No.1 in Block No.58, Thiruvanmiyur Village, Chennai District and issue a separate patta in respect of lands belonging to the petitioners admeasuring 21.12 acres in old Survey No.179/2 in T.S.No.1 in Block No.58, Thiruvanmiyur Village, Chennai District.

For Petitioners : Mr.P.S.Raman  
Senior counsel for M/s.Sathish Parasaran

For Respondents 1&2: Mr.M.Dig Vijay Pandian  
Additional Government Pleader

For Respondent 3 : Mr.B.N.Suchindran

For Respondent 4 : Mr.A.Vijayaraghavan

#### O R D E R

This writ petition came to be posted before this Court on being specially ordered by the Honourable Chief Justice.

2.This writ petition is filed by the petitioners seeking for a direction to the second respondent Tahsildar, Mylapore - Triplicane Taluk, to sub-divide and demarcate the lands situated in T.S.No.1 in Block No.58, Thiruvanmiyur Village, Chennai and issue separate patta in respect of the lands belonging to the petitioners measuring 21.12 acres in old Survey No.179/2, T.S.No.1 in Block No.58, Thiruvanmiyur Village, Chennai District.

3.When the writ petition came up for admission on 12.12.2007, notice of motion was ordered. Pending the writ petition, the third respondent was directed to maintain status-quo in respect of T.S.No.179/2. Subsequently, on 17.12.2008 this Court modified the order of status-quo to the effect that the third respondent shall carry out the repair works in the disputed building, but they should not put up any new construction till the disposal of the writ petition.

4.Aggrieved by the same, the third respondent filed a date stay application in M.P.No.1 of 2007 to vacate the interim order of status-quo dated 12.12.2007 and also M.P.No.1 of 2012 to vacate the status-quo order dated 12.12.2007 which was modified on 17.12.2008. However, both the applications are yet to be disposed of.

5.The petitioners also filed an application to implead the Union of India in M.P.No.2 of 2008 and the Union of India has also

(89)



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20 / 07 / 2012

CORAM

THE HONOURABLE MR. JUSTICE K. CHANDRU

W.P. NO. 36902 OF 2007

AND CONNECTED MISCELLANEOUS PETITIONS

. P. Parvathi  
. A. Lakshmi  
. Saraswathy  
. P. Nandhini  
. P. Nethra  
. S. Venkatasubramanian

... Petitioners

versus

. State of Tamil Nadu  
Rep. by the Secretary to Government  
Revenue Department  
Secretariat, Fort St. George,  
Chennai - 600 009.

. The Tahsildar  
Mylapore - Triplicane Taluk  
Mylapore, Chennai - 600 004.

. M/s. Kalakshetra Foundation  
Rep. by its Director  
Kalakshetra Road,  
Besant Nagar, Chennai - 600 090.

. Union of India  
Rep. by Secretary to Government  
Ministry of Culture  
New Delhi - 110 001.  
(Rd impleaded as per order dated  
21.04.2008 in M.P.No.2 / 2008 in  
W.P.No.36902 / 2007)

... Respondents

AYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus, to direct the

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bh 006781 1



The work of construction of the guest house was entrusted to the Central Public Work Department / CPWD in 2003 and completed in 2005. The guest house is now called as 'Upasika'. No renovation work is done in the block except painting and polishing work which has been done in 2010 as part of routine maintenance work.

It could be seen from above that work of all the buildings in your notice were completed before 2005 and repair & only maintenance works has been taken up since then, so as to attend to normal wear & tear of the buildings depending upon for need and exigency present at the time.

*Leela Samson*

(Leela Samson)  
Director

- Copy to 1) The Commissioner,  
Corporation of Chennai,  
Ribbon Building,  
Chennai 600 003.
- 2) The Assistant Executive Engineer  
Corporation of Chennai Dn: 155  
Thiruvanmiyur, Chennai 600 041





स्सो वै सः

## Kalakshetra Foundation

By R.PAD

C:\ 2010-2011\V.Admin\Corporation of Chennai. doc

December 23, 2010

To  
The Executive Engineer - II,  
Zone X, Corporation of Chennai,  
Adyar, Chennai 600 020.

Sub: Unauthorized construction and Renovation of guest house (Manasvini, Upasika, and Visual art section and Auditorium in Kalakshetra Foundation – Reg.

- Ref: i) Stop work Notice No.Dn;155/013/2010 dated 20.9.2010.  
ii) Orders of Hon'ble High court in W.P.No.36902/2007,mp and 1/2007 dated 12.12.2007  
iii) Form No.1 (SEC.56) – Demolition Notice – Letter No/Dn.155/013/2010 Dated 14.12.2010.  
iv) Our letter dated 22<sup>nd</sup> September 2010 to The Executive Engineer – II/Zone X

The construction of Auditorium was completed in 1985, and no repairs were carried out in the auditorium. Due to the water leakages in the roof area, the repair work for sealing the water leakage from the entire roof, after removing existing roof tiles and replacing them to keep the Auditorium roofing in good condition, has been carried out. A copy of the original approved plan for the Auditorium has been submitted to The Commissioner, the Corporation of Chennai on 20.12.2010 as requested by your letter dated 14.12.2010

The visual art section building was constructed during 1970, much before Thiruvanmiyur town came under the jurisdiction of Corporation of Chennai. As this building is used for art classes, the surroundings rank vegetation was cleared & repair of the flooring was done. No renovation work has been done in the building so far.

**As we are the an autonomous Institution under the Ministry of Culture, Government of India**, the work of construction of Besant Centenary Block was entrusted to the Central Public Works Department / CPWD in 2003 and completed in 2005. The block is now called MANASVINI, one of the hostel block for the students. Since the quality and level of the cement flooring (existing) was not up to level and had suffered much wear and tear, the need for redoing & repairing the flooring (tile) work was taken up.

.....2

Founder: Smt Rukmini Devi  
Chairman: Justice Sri S. Mohan  
Director & Secretary: Ms. Leela Samson



E-mail: admin@kalakshetra.in  
Phone: +91-(0)44-24520836/4057/1844  
Fax: +91-(0)44-24524359

Tiruvanmiyur, Chennai 600 041, India  
www.kalakshetra.in

(92)



E/o. 18/10.

FORM NO.1 (SEC.56)

DEMOLITION NOTICE

CORPORATION OF CHENNAI, ZONAL OFFICE-~~X~~, CHENNAI.

NOTICE under section 56 read with section 85 of the Town and Country Planning Act, 1971, requiring Demolition of the construction put up unauthorisedly without planning permission required under section 49 of the said Act.



Letter No. / Dn. 155/013/2010

Dated: 14.12.10

Sub: Corporation of Chennai - Unauthorised Construction without planning permission at and Renovation of Guest house (Manasuni, Upashika), Visual Act Section & Auditorium without planning permission Demolition notice - Issued.

Ref: Stop Work Notice No. Dn. 155/013/2010 dt 20.9.2010. & orders of Hon'ble High Court in W.P.No. 36902/2007, mp no. 1/2007 dt. 12.12.2007.

The construction of and Renovation of Guest house (Manasuni, Upashika) Visual Act Section and Auditorium at Kalakshetra Foundation, Thiruvannmiyur, Chennai - 41..... is unauthorised one. It has been carried without planning permission required under section 49 of Town and Country Planning Act, 1971.

2. You have not produced the copy of valid approved plan, in response to the stop work Notice cited.

3. You are hereby called upon to restore the land / building to its condition, as it existed on 27.7.2007, within 30 days from the date of receipt of this notice, failing which action will be taken under Sec.56, Sub-section(5) Clause (b) (i) and (ii) Town and Country Planning Act, 1971, to restore the land / building to its condition as on 27.7.2007 without any further notice to you.

EXECUTIVE ENGINEER ZONE -~~X~~

20/12/10 AEE/105

To The Director,  
...M/s. Kalakshetra Foundations,  
...Mullalakshmi Salai,  
Thiruvannmiyur,  
Chennai - 41.

18/12

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22<sup>nd</sup> Sept. 2010

The Executive Engineer-II,  
Zone X, Corporation of Chennai,  
Adyar, Chennai-600 020.

Sir,

Sub: Notice No.DN-155/013/2010, dt.20-9-2010 -  
Stop work notice - Production of approved plan  
issued under Sec.56 & 57 of Town and Country  
Planning Act - Reg.

Ref: 1. PPS/BA- No.334-B/79  
2. Building Permission No.310/80, dt.4-7-1980

In reference to the Koothambalam -Theatre of Kalakshetra Foundation, we would like to inform you that the work that is undertaken is renovation and leakage repairs and there is no new construction, as expressed by you in your notice.

The consulting Architect Mr. Ravi Niilakantan and Advisor on our Board is Mr. P.T. Krishnan, Senior Architect, who has done renovation work of Senate building, University of Madras. The same architect is advising us on the renovation of the Koothambalam. It was constructed and completed in 1983. Since then, no repairs were conducted on the theatre. It is after this period of nearly 27 years, that repairs are being undertaken due to leakage causing inconvenience to the smooth running of our programmes.

Yours faithfully,

(Leela Samson)  
Director

Copy to : The Assistant Executive Engineer,  
Corporation of Chennai  
Division No. 155  
Tiruvanniyur,  
Chennai 600 041.

சென்னை மாநகராட்சி  
பகுதி - 155  
திருவணியூர்  
சென்னை 600 041  
2010 செப்டம்பர் 22  
20

Tiruvanniyur, Chennai 600 041, India  
Phone: +91-(0)44-24520836/4057/1844 • Fax: +91-(0)44-24524359  
E-mail: admin@kalakshetra.in • Website: www.kalakshetra.in



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Founder: Smt. Rukmini Devi  
Chairman: Justice Sri S. Mohan  
Director and Secretary: Ms. Leela Samson



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**CORPORATION OF CHENNAI, ZONAL OFFICE - X CHENNAI**

**STOP WORK NOTICE / NOTICE CALLING FOR APPROVED PLAN**

Notice Under Section 56 and 57 read with Section 85 of the Tamil Nadu Town and Country planning Act, 1971 (Tamil Nadu Act, 35 of 1972 as amended in Act, 22 of 1974)

Notice No. DN - 155/ 013 /2010

Dated :20.9.10

**Sub :** Corporation of Chennai - Construction work at Kalashetra Foundation, Muthulakshmi Salai, Thiruvanmiyur, Chennai - 41. Stop work Notice / Production of approved plan issued under section 56 and 57 of Town and Country Planning Act.

**Ref :** Site Inspection made on 20.9.2010

Your construction at the site under reference was inspected. No approved plan has been exhibited at the site or produced when called for. Therefore, you are requested to produce a copy of the approved plan in original for verification and if no approved plan is available or the construction is in deviation to the approved plan, you are requested to stop the work immediately and confirm in writing the fact of having done so, with in 3 days from the date of receipt of this notice. If you fail to comply with this notice with in the stipulated time, Corporation pf Chennai will be constrained to take legal against the construction under the provisions of the Town and Country planning Act, 1971.

To

M/S. Kalashetra Foundations,  
Muthulakshmi Salai,  
Thiruvanmiyur, Chennai-41

*20/9/2010*  
*AEE/105*  
**EXECUTIVE ENGINEER II**  
**ZONE X**  
**EXECUTIVE ENGINEER**  
**ZONE X**  
**CORPORATION OF CHENNAI**

(95)



Received on

08.10.2013

From  
The Member-Convenor of the Heritage  
Conservation Committee  
Chennai Metropolitan Development  
Authority, "Thalamuthu Natrajan  
Building", No.1, Gandhi-Irwin Road,  
Egmore, Chennai-600 008.

To  
Ms. Babeeta Narang,  
The Chief Accounts Officer,  
Kalakshetra Foundation,  
Thiruvanmiyur,  
Chennai - 600 041.

Lr.No.C1/H/1320/2013

Dated.08 .10.2013

Sir,

Sub: CMDA - DDP Division - HCC - Kalakshetra Foundation  
Theatre, Thiruvanmiyur - Sub Committee inspection on  
31.10.2013- Letter Received from Kalakshetra Foundation -  
Reply sent - Regarding.

Ref: Lr.No.KF/CMDA/2013-2014 datetd.02.08.2013 received from  
Kalakshetra Foundation addressed to the Member-Convenor of  
the Heritage Conservation Committee

.....

Kind attention is invited to the reference cited, and it is informed that CMDA is governed by the Tamil Nadu, T&CP Act, 1971. The Heritage Rules have been framed as part of the Second Master Plan, statutorily notified under the Tamil Nadu, T&CP Act. Any development in the Heritage Building / Precincts in CMA is governed by the special rules for conservation of Heritage Building.

In view of the above, taking the approval of Ministry of Culture for making any stipulation / regulation by CMDA for your building is not necessary.

Yours faithfully,

*Pudhuvathi*

8.10.13

for MEMBER-SECRETARY.

8/10/13

96





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L 600008 30.10.2015  
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The Director,  
Kalakshetra Foundation Theatre,  
Kalakshetra Foundation,  
Thiruvanniyur,  
Chennai - 600 041.



(Handwritten initials)

**Chennai Metropolitan Development Authority**  
"THALAMUTHU - NATARAJAN BUILDING"  
No.1, Gandhi Irwan Road, Egmore, Chennai - 600 008.



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### Fire Safety:

- Approved press tiles / thermo tiles to be utilized for finishing top roof / weathering course.
- All electrical appliances including Air-conditioning are to be switched off during weekends and after office hours.
- Signage for egress for the structure to be available at the site.
- Fire resistant materials to be used for partitions
- Fire detectors/sprinklers to be provided.
- Fire protection paint coat to be provided for new iron works and enamel paint for timber sections.
- Necessary no objection certificate from the Director of Fire and Rescue Services to be obtained for the renovation works before commencement.

### Electrical Safety:

- Concealed wiring to be carried out with proper earthing wherever possible.
- Periodical Electrical Audit to be carried out for all electrical installations including lift. Leakage in electric wires to be checked periodically.
- Hap hazard use of extension cord to be prohibited.
- Proper color code to be used for power cable and for earth-wires.
- Durable earth pit with filled up charcoal to be provided for making the earth wires effective.
- Electrical Inspection Certificate to be obtained regularly and kept in record.

H. Nimaldeen  
30/10/15  
for MEMBER SECRETARY

RB  
29/10/15

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- Uprooting /eradication of all vegetation growth in the building to be ensured.
- The proposed construction within the heritage precincts shall in no way affect structurally or weaken the existing heritage buildings
- Storing of inflammable material within the heritage building is to be prohibited.
- The plan showing the false ceiling arrangements, air-conditioning, duct lines if any in all floors and electrical lines are to be prepared

#### **Architectural Control and Preservation:**

- Retention of all existing wooden and other materials including floor planks, wooden roof joists, windows and door frames, and shutters which may be required for restoration with proper fire protection coat.
- Flammable structural members to be painted for fire resistance.
- The main doors and the large decorative window frames to be retained.
- In the case of new teak to be used, the same to match the existing quality as far as possible;
- In the case of new glass panes, the same to match the existing glass panes.
- The interventions to be such that it should be possible to reverse them if not required without disturbing the heritage value of the original building.
- The street side elevation to be maintained.
- The colour of the proposed building to match that of the existing building.
- Flooring to be matched with the original flooring in terms of material, color, thickness, texture, pattern and pointing.
- Re-plastering of internal and external surfaces to be carried out by using original plaster composition (lime plaster or whatever compositions originally used).
- All accessories to match with the existing accessories in respect of furniture fittings.
- The works relating to partition, false ceiling, painting and air-conditioning, net working and electrical works to be carried out without affecting the internal/ external heritage features.
- Any usage of name plates, sign boards should gel with the architecture.



GUIDELINES FOR PRESERVATION  
AND CONSERVATION OF HERITAGE BUILDINGS IN CMA

**General**

- If the site level is found to be lower than the abutting road level, proper drainage arrangements to drain the storm water from the site should be made if necessary by pumping arrangement periodically.
- Stagnation of water to be avoided especially near the foundations.
- Exit bell-mouth arrangement for water drainage may be provided and the drain level to be lower than the site level.
- Trees / vegetation cover near the heritage structure may be relocated / to be trimmed.
- Pest control treatment to be done periodically.
- Site should be secured by ensuring proper security arrangements.
- Removal of all debris within the premises
- The potholes in the premises have to be leveled to avoid stagnation of water.

**Structural Safety:**

- Major cracks in the buildings to be repaired immediately with proper treatment and to be monitored after treatment for re-occurrence.
- Structural survey to be made regularly to check general cracking, the sagging of beams, settlement of columns (Structural Stability), foundation subsidence etc.,
- Storing of condemned furniture or hazardous material within the heritage building to be avoided.
- Lightning arresters to be installed and are to be made functional.
- Generally false ceiling have to be avoided. Damages behind false ceiling to be observed through inspection holes if necessary. In unavoidable circumstances, non-inflammable false ceiling material such as Gypsum Board to be used.
- A copy of the fire safety arrangements necessary for the structure to be kept at the site showing egress details if the heritage structure is functionally used.
- The building / structures should be protected from rain and seepage by covering it temporarily till the restoration is planned and carried out.

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From  
The Member-Secretary,  
Chennai Metropolitan Development  
Authority  
No.1, Gandhi-Irwin Road,  
Thalamuthu-Natarajan Maaligai,  
Egmore, Chennai-8

To  
The Director,  
Kalakshetra Foundation Theatre,  
Kalakshetra Foundation,  
Thiruvannamipur,  
Chennai - 600 041.

KALAKSHETRA  
FOUNDATION  
No.: 4379  
DATE: 4.11.2015  
85D

C1/H/ 14030/2014

Date: 29.10.2015

Sir,

Sub: CMDA – DDP Division – Heritage Conservation Committee – Guidelines for  
preservation and conservation of Heritage Buildings in CMA – sent - Reg.

Ref: 1. G.O.Ms.No.85, H&UD Dept., dated 01.04.2010  
2. High Court Order on W.P.No.25306/2006 dated 29.04.2010.  
3. Cause notice issued in Lr.No. C1/H/8309/2010 dated 28.08.2010.

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Inviting kind attention to the references cited above, I am to inform you that the cause  
notices were issued to the concerned owners in respect of buildings/precincts listed in the report  
filed by the Committee headed by Justice E.Padmanabhan, so that there is no threat of  
demolition or destruction or alteration to such buildings, thereby diminishing their heritage  
value, without the permission of the Heritage Conservation Committee. Your building/premises  
stated below is one of them listed in the Justice E.Padmanabhan Committee's Report

Justice E.Padmanabhan Committee Report

S.No.	Building No.	Name of the Building/Precincts	Location
440	S4/1/3	Kalakshetra Foundation Theatre	Anna Street

Heritage Conservation Committee in its meeting held on 24.09.2014 have framed  
guidelines for preservation and conservation of Heritage Buildings in CMA. Hence enclosing a  
copy of Guidelines for preservation and conservation of Heritage Buildings, you are requested to  
take proper measures for maintenance of the buildings as per the guidelines enclosed for  
maintenance of the buildings so as to save the building from further deterioration.

Encl: a copy of Guidelines for preservation  
and conservation of Heritage Buildings in CMA

Yours faithfully,

M. Nimaladevi  
30/10/15  
for Member – Secretary

29/10/15

(101)