

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13/8/2015

C O R A M

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI

and

THE HON'BLE MR. JUSTICE K.K.SASIDHARAN

W.P. Nos.23124 and 23125 of 2015

H.Jumma Bheevi Petitioner in W.P.No.
23124 of 2015

and

S. Kalyani ... Petitioner in W.P.No.
23125 of 2015

Vs

1. The District Collector
Thiruvarur District
Thiruvarur.
2. The Deputy Superintendent of Police
Muthupettai
Thiruvarur District.
3. The Revenue Divisional Officer
Mannargudi
Thiruvarur District.
4. The Tahsildar
Thiruthuraipoondi Taluk
Thiruvarur District.
5. The Executive Officer
Muthupettai Selection Grade Town Panchayat
Muthupettai
Thiruvarur District. ... Respondents in both the
petitions.

Writ Petitions filed under Article 226 of the Constitution of India seeking a writ of certiorari to call for the records relating to the impugned proceedings issued by the fifth respondent in Na.Ka.No.544/2014/A2 dated 9/7/2015 and to quash the same.

For petitioners : Mr.G.Sankaran
For respondents : Mr.N.Sakthivel
Government Advocate

C O M M O N O R D E R

(Order of the Court was made by SATISH K. AGNIHOTRI,J.,)

With the consent of the learned counsel for the parties, these writ petitions are taken up for final disposal.

2. Assailing the legality of the notices dated 9th July, 2015, the petitioners have filed these writ petitions.

3. The sole grievance of the petitioners is that the impugned notices have been issued, calling upon them to remove the constructions made by way of encroachments in waterway poramboke at Checkadikulam in S.No.247/0 and Checkadi Odai in S.No.230/0 belonging to Town panchayat. They were not afforded any opportunity of hearing to establish that they are not encroachers. They are in lawful occupation of the property in question and as such, these notices need to be quashed, affording an opportunity of hearing to them to place their cases before the authorities.

4. On the other hand, the learned Government Advocate submits that the impugned notices may be treated as show-cause notices and as such, the petitioners will have full opportunity to make representation/explanation in response to the impugned notices.

5. Having considered the rival contentions advanced by the learned counsel appearing for the parties and also on a perusal of the pleadings and documents appended thereto, it is manifest that there is no reference to the show cause notices issued earlier in the impugned notices. The impugned notices do not appear to be in the nature of show cause notices, as the petitioners were not called upon to show-cause, as to why action of removal be taken against them. The impugned notices were issued directing the petitioners, to remove the encroachment, without affording an opportunity to them to place their cases before the authorities.

6. In that view of the matter, we hold the impugned notices be deemed as show cause notices, granting two weeks time to the petitioners to file their response, putting forward their cases before the authorities. Thereafter, the authorities are directed to pass fresh orders on its merits in accordance with law and take consequential action, if need be. It is made clear that no consequential action shall be taken till final decision is taken on

the representations/explanations to be filed by the petitioners, within a period of two weeks, as stipulated above.

7. These writ petitions are disposed of with the above directions. No costs. Connected Miscellaneous Petitions are closed.

Sd/-
Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

mvs.

To

1. The District Collector
Thiruvarur District
Thiruvarur.
2. The Deputy Superintendent of Police
Muthupettai
Thiruvarur District.
3. The Revenue Divisional Officer
Mannargudi
Thiruvarur District.
4. The Tahsildar
Thiruthuraipoondi Taluk
Thiruvarur District.
5. The Executive Officer
Muthupettai Selection Grade Town Panchayat
Muthupettai
Thiruvarur District.

+2 cc to Mr.G.Sankaran, Advocate, sr.42657
+2 cc to The Government Pleader, sr.42598 and 42599

W.P. Nos.23124 and 23125 of 2015

ak(co)
kra(2/9)