

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 03-02-2015

CORAM:

THE HONOURABLE MR. JUSTICE SATISH K. AGNIHOTRI
AND

THE HONOURABLE MR. JUSTICE M. VENUGOPAL

W.P. Nos.2537 to 2552 of 2015 and M.P. Nos.1 of 2015

T. Kasi	..Petitioner in WP.2537/2015
Mallika	..Petitioner in WP.2538/2015
Ponnammal	..Petitioner in WP.2539/2015
K. Ramesh	..Petitioner in WP.2540/2015
P. Mani	..Petitioner in WP.2541/2015
Alamelu	..Petitioner in WP.2542/2015
Kalyani	..Petitioner in WP.2543/2015
Smt.Lakshmi W/o. Lingadurai	..Petitioner in WP.2544/2015
K. Amudha	..Petitioner in WP.2545/2015
Lakshmi D/o. Ramanathan	..Petitioner in WP.2546/2015
Kumarasamy	..Petitioner in WP.2547/2015
S. Subramani	..Petitioner in WP.2548/2015
Vedammal	..Petitioner in WP.2549/2015
Vinod	..Petitioner in WP.2550/2015
Kali	..Petitioner in WP.2551/2015
Smt. Muniammal	..Petitioner in WP.2552/2015

Vs.

1 The District Collector
Kancheepuram District

2 The Tahsildar
Chengalpet Taluk
Chengalpet

3 The Revenue Inspector
No.56, Kattankolathur
Kancheepuram Taluk
Kancheepuram District

Respondents in all Writ petitions.

Writ Petitions filed under Article 226 of the Constitution of India seeking a writ of certiorari, calling for the records relating to notice under Section 6 of the Land Encroachment Act, 1905 dated 14.01.2015 in Na.Ka.No.4612/2014 of the second respondent herein and quash the same.

For petitioner in Mr. AR.L. Sundaresan, Sr. Counsel
all the WPs for M/s. AL. Gandhimathi

For respondents in Mr. P.S. Sivashanmugasundaram
all the WPs Special Government Pleader

COMMON ORDER

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

Mr. P.S. Sivashanmugasundaram, learned Special Government Pleader, takes notice for the respondents. With the consent of the learned counsel on either side, the writ petition is taken up for final disposal at the admission stage itself.

2 Being aggrieved by the notices dated 14.01.2015 issued under Section 6 of the Land Encroachment Act, 1905, (for short "the Act") calling upon the petitioners to remove the encroachment, the petitioners have come up with the instant writ petitions, questioning the legality of the said notices on the ground that the same have been issued, directing eviction and without affording an opportunity of hearing to them.

3 It is submitted by the learned Senior Counsel appearing for the petitioners that Section 7 of the Act contemplates issuance of a notice and also affording an opportunity of hearing before passing an order / notice under Section 6 of the Act. The issue with regard to purported encroachment in the area came up for consideration in W.P. No.10246 of 2014. A Division Bench of this Court directed the Tahsildar, Chengalpet to consider the representation dated 04.07.2013, made by one K.S. Rajan, the petitioner therein and take

action after notice to all the parties. The authorities, without notice and affording an opportunity of hearing to the petitioners against whom allegation of encroachment was made, passed the impugned orders. Thus, the same are not sustainable in the eye of law.

4 The learned Special Government Pleader appearing for the respondents would submit that on a perusal of the impugned notices, as there is no reference of any notice issued under Section 7 of the Act, it appears that opportunity of hearing was not afforded to the petitioners. Thus, the impugned notices may be treated as notices under Section 7 of the Act, granting reasonable time to the petitioners to file their reply to the same. Thereafter, the authorities be permitted to take action on merits and in accordance with law.

5 We are of the view that the submission of the learned Special Government Pleader is reasonable. If there is no notice under Section 7 of the Act, the impugned notices which are issued under Section 6 of the Act be treated as notices under Section 7 of the Act. The petitioners are accordingly granted three weeks time to file their reply, putting forward their cases before the authorities. Thereafter, the authorities, after considering the petitioners' reply, shall pass appropriate orders and take action in accordance with law and on their own merits. If it is found that there is encroachment, necessary steps for removal of the same shall be taken within a further period of three weeks.

6 With the above direction and observation, the writ petitions stand disposed of. Costs made easy. Connected Miscellaneous Petitions are closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

cad

To

1 The District Collector
Kancheepuram District

2 The Tahsildar
Chengalpet Taluk
Chengalpet

3 The Revenue Inspector
No.56, Kattankolathur
Kancheepuram Taluk
Kancheepuram District

+1cc to Ms.AL.Gandhimathi, Advocate SR.No.6178

W.P. Nos.2537 to 2552 of 2015

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