

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.09.2015

CORAM:

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR.JUSTICE K.K. SASIDHARAN

W.P. Nos.28773 and 28775 of 2015 and M.P. Nos.1 & 2 of 2015

KesavanPetitioner in WP No.28773 of 2015

Abdul MajeethPetitioner in WP No.28775 of 2015

vs.

1 The Coastal Aquaculture Authority
Shastri Bhavan, II Floor
Shastri Bhavan Annexure
26, Haddows Road
Chennai 600 006

2 The District Collector
Villupuram District

3 The Forest Range Officer
Tindivanam Forest Range Office
Villupuram District

4 The Tahsildar
Office of the Tahsildar
Marakkanam
Villupuram District

5 The Village Administrative Officer
No.221, Nadukuppam Village
Tindivanam Taluk
Villupuram District

...Respondents in both the WPs

Prayer in W.P. No.28773 of 2015:

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus calling for the records of the fourth respondent i.e., the Tahsildar, Marakkanan,

culminating in A2/852/2015 dated 21.08.2015, quash the same and further, direct the respondents not to take any coercive steps from evicting the petitioner from the shrimp farm in Survey Nos.641/1, an extent of 0.75.0, 642/3, an extent of 0.05.0 acres at Nadukuppam (East) Village, Marakkanam Union, Villupuram District.

Prayer in W.P. No.28775 of 2015:

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus calling for the records of the fourth respondent i.e., the Tahsildar, Marakkanan, culminating in A2/852/2015 dated 21.08.2015, quash the same and further, direct the respondents not to take any coercive steps from evicting the petitioner from the shrimp farm in Survey Nos.620/1, 621/1, 624/1, 624/2 an extent of 3.68 acres at Nadukuppam (East) Village, Marakkanam Union, Villupuram District.

For petitioner : Mr. Shriram Panchu, Sr. Counsel
in both the WPs for Mr. K. Balakrishnan

For RR 2,4 & 5 : Mr. N. Sakthivel
in both the WPs Govt. Advocate

For R3 : Mr. N. Inbanathan
in both the WPs Government Advocate

COMMON ORDER
(delivered by SATISH K. AGNIHOTRI, J.)

Mr. N. Sakthivel, learned Government Advocate, accepts notice for respondents 2,4 and 5. Mr. N. Inbanathan, learned Government Advocate, accepts notice for respondent 3. With their consent, the writ petitions are taken up for final disposal, at the admission stage itself.

2 The instant writ petitions are filed assailing the eviction notices dated 21 August 2015, issued under Section 6 of the Tamil Nadu Land Encroachment Act, (for short "the Act") and for a direction to the respondents not to take any coercive steps from evicting the petitioners from the properties in question at Nadukuppam (East) Village, Marakkanam Union, Villupuram District.

3 The terse facts leading to the filing of the instant writ petitions are that on the 24 July 2015, the petitioners were issued with notices under Section 7 of the Act, stating that since they are

in possession of the Government land sans any permission, additional penal tax can be imposed on them or they would be evicted from the place in question. By the said notices, the petitioners were further asked to show cause within 21 days as to why action should not be initiated against them under Section 6 of the Act. Pursuant thereto, the petitioners submitted their replies on the 18th and 17th ultimo respectively. Eventually, on the 21st ultimo, the fourth respondent issued notices under Section 6 of the Act, directing the petitioners to vacate the properties in question within 15 days. Feeling aggrieved by the same, the present writ petitions for the aforestated relief.

4 The learned counsel for the petitioners submits that before the impugned notices came to be issued by the fourth respondent, the petitioners' replies, pursuant to the notices issued under Section 7 of the Act, were not considered properly and as such, on the said ground, the impugned notices are liable to be set aside.

5 Be that as it may, it is not that the petitioners do not have any other remedy, except challenging the impugned notices by filing these writ petitions. The impugned notices passed under Section 6 of the Act, are appealable under Section 10 of the Act. As such, there is no reason to bypass or sidestep the appeal jurisdiction to invoke the extra-ordinary jurisdiction of this Court.

6 We, accordingly, dispose of the writ petitions, reserving liberty to the petitioners to take recourse to the appellate forum, if so advised. For a period of two weeks from today, i.e., 14 September 2015, there shall be an order of status quo as obtained today, in respect of the properties in question, to enable the petitioners to prefer appeals as against the impugned notices. Costs made easy. Connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-IV)

/True Copy/

Sub Assistant Registrar

cad

To

- 1 The Coastal Aquaculture Authority
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Villupuram District

2CCs to Mr.K.Balakrishnan, Advocate SR 49978, 49980

1CC to Spl. Government Pleader (Forest) SR 50126

1CC to Government Pleader, SR 50243

W.P. Nos.28773 and 28775 of 2015

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PSI 18.09.2015

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