

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.04.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.Nos.7089 & 7090 of 2011 &
M.P.Nos.1 & 1 of 2011 &
1 & 1 of 2015

Santhamma ... Petitioner in W.P.No.7089/2011
Lalitha ... Petitioner in W.P.No.7090/2011

v.

1.The District Collector,
Krishnagiri District.

2.The Tahsildar,
Taluk Office,Hosur,
Krishnagiri District.

3.The Revenue Inspector,
Office of the Revenue Inspector,
Near Lakshmi Devi Theatre,
Hosur Royakottai Road,
Hosur Town & Post,
Krishnagiri District.

4.The Village Administrative Officer,
Chennathur North, Office of VAO,
Near Treasury Compound,
Hosur Royakottai Road,
Hosur Town & Post,
Krishnagiri District.

... Respondents in both Wps

W.P.No.7089/2011 filed under Article 226 of the Constitution of India praying for a writ of mandamus forbearing the respondents, their men, agents and subordinates from any manner interfering with the petitioner's peaceful possession and enjoyment of all that piece and parcel of property in 556/75, Old No.3/58A, Old Krishnagiri Road, Parvati Nagar, 2nd Cross, Hosur Town and Post, Hosur Taluk, Krishnagiri District comprised in S.No.992 of Chennatur Village admeasuring 1380 sq.ft. except by due process of law.

W.P.No.7090/2011 filed under Article 226 of the Constitution of India praying for a writ of mandamus forbearing the respondents, their men, agents and subordinates from any manner interfering with

the petitioner's peaceful possession and enjoyment of all that piece and parcel of property in 556/80, Old Krishnagiri Road, Parvati Nagar, 2nd Cross, Hosur Town and Post, Hosur Taluk, Krishnagiri District comprised in S.No.992 of Chennatur Village admeasuring 1000 sq.ft. except by due process of law.

For Petitioners : Mr.A.Nissar Ahmed

For Respondents : Mr.R.Lakshminarayanan,
Addl. Govt. Pleader

COMMON ORDER

Heard Mr.A.Nissar Ahmed, learned counsel appearing for the petitioner and Mr.R.Lakshminarayanan, learned Additional Government Pleader appearing for the respondents and with their consent, the main writ petitions are taken up for final disposal.

2. In both the writ petitions, petitioners claim to be in possession of their property measuring an extent of 1380 sq.ft. and 1000 sq.ft. respectively and they sought for a direction to forbear the respondents, from in any manner evicting them except by due process of law.

3. This court, while entertaining the writ petitions granted interim injunction by order dated 22.3.2011. The second respondent has filed counter affidavit dated 4.12.2014 along with vacate stay petitions. In the counter affidavit, it has been stated that unauthorized occupants, who had encroached the Annaadheenam Government Proamboke lands are encroachers and notices under section 7 of the Tamil Nadu Land Encroachment Ac were issued to all the encroachers including the petitioners and subsequently, notices under section 6 of the Tamil Nadu Land Encroachment Act were also issued to them but, they have not responded to the said notices. Further, in the counter affidavit, there is no specific averment made with regard to the date on which the said notices were served on the petitioners. Therefore, the counter affidavit to that effect is rejected as vague. Further, it has been stated in the counter affidavit that the petitioners have appeared before the Peace Committee Meeting convened and agreed to vacate the encroached land and move to the Slum Clearance Board Houses and thereafter, suddenly, they turned hostile and filed the present writ petitions with the aforesaid prayers.

4. However, to support the said averments, there is no record placed by the respondents along with the counter affidavit.

5. With regard to the contention raised by the petitioners that they are in possession of the property for the past 20 years, the counter affidavit states that the said averment is false.

6. On a perusal of the documents filed along with the writ petitions, it is seen that there is no evidence to show that the petitioners were in possession of the premises in question for the past 20 years. Therefore, I am of the view that the averments made by the petitioners that they are residing in the above mentioned property for the past 20 years has to be rejected as not substantiated.

7. In the light of the above, the writ petitions are disposed of by directing the second respondent to issue fresh notices to the petitioners under the Tamil Nadu Land Encroachment Act and proceed to evict them in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

Rj
To

- 1.The District Collector,
Krishnagiri District.
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Taluk Office,Hosur,
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Hosur Town & Post,
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+ 2 ccs to Mr.N.A. Nissar, Ahmed, Advocate SR.20887 & 20888

WP.Nos.7089 & 7090 of 2011 &
M.P.Nos.1 & 1 of 2011 &
1 & 1 of 2015

VSN(CO)
EU 28.04.2015