

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2015

CORAM

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR.JUSTICE M. VENUGOPAL

W.P. Nos.5407 to 5412 of 2015 and M.P. Nos.1 of 2015

Mr.A. Lakshmanan ... Petitioner in W.P. No.5407 of 2015
G.Manimala ... Petitioner in W.P. No.5408 of 2015
Mrs. Bharani Sekar ... Petitioner in W.P. No.5409 of 2015
Mrs. V.Amudha ... Petitioner in W.P. No.5410 of 2015
J.Ravi ... Petitioner in W.P. No.5411 of 2015
A.Gunaseelan ... Petitioner in W.P. No.5412 of 2015

Vs.

1. The District Collector
Kancheepuram District
Kancheepuram
2. The Revenue Divisional Officer
Kancheepuram District
Kancheepuram
3. The Special Tahsildar
(Harijan Welfare - Land Acquisition)
Chengalpattu Taluk
Kancheepuram District
4. The Revenue Inspector
Chengalput Kuruvattam
Chengalpattu Taluk
Kancheepuram District
5. Radhakrishnan

6. Rajan

7. Sasidharan

... Respondents in all W.Ps

Prayer in W.P. No.5407 of 2015:

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus to call for the records from the 4th respondent's impugned notice dated 06.01.2015 and quash the same and consequently, direct the respondents 1 to 4 to take proper measurements on both sides of the road i.e., East to Western side of the road of Ramakrishna Nagar, 1st st., Melamaiyur Village, Chengalpattu Taluk, Kancheepuram District based on the Field Map and the petitioner's registered sale deed dated 19.05.1997 for forming the road.

Prayer in WP 5408/15:

A writ of Certiorarified Mandamus or any other writ or order or direction, to call for the records from the 4th respondent's impugned notice dated 06.01.2015 and quash the same and consequently direct the 1st to 4th respondents to take proper measurements on both side of the road i.e., East to Western side of the road at Ramakrishna Nagar 1st Street, Melamaiyur Village, Chengalpattu Taluk, Kancheepuram District based on the Field Map, Patta No.320, dated 16.08.07 and the Petitioner's Registered Sale Deed dated 02.03.1988 for forming the road.

Prayer in WP 5409/15:

A writ of Certiorarified Mandamus or any other writ or order or direction, to call for the records from the 4th respondents impugned notice dated 6.1.2015 and quash the same and consequently direct the 1st to 4th respondents to take proper measurements on both side of the road i.e. East to Western side of the road at Ramakrishna Nagar, 1st Street, Melamaiyur Village, Chengalpattu Taluk , Kancheepuram District based on the Field Map and the petitioners Registered Sale Deed dated 19.5.1997 for forming the road.

Prayer in WP 5410/15:

A writ of Certiorarified Mandamus or any other writ or order or direction, to call for the records from the 4th respondents impugned

notice dated 6.1.2015 and quash the same and consequently direct the 1st to 4th respondents to take proper measurements on both side of the road i.e. East to Western side of the road at Ramakrishna Nagar 1st Street Melamaiyur Village Chengalpattu Taluk Kancheepuram District based on the Field Map and the petitioners Registered Sale Deed dated 7.3.1988 for forming the road.

Prayer in WP 5411/15:

A writ of Certiorarified Mandamus or any other writ or order or direction, to call for the records from the 4th respondents impugned noticedated 6.1.2015 and quash the same and consequently direct the1st to 4th respondents to take proper measurements on both sideof the road i.e. East to Western side of the road at Ramakrishna Nagar 1st Street Melamaiyur Village Chengalpattu Taluk Kancheepuram District based on the Field Map Patta NO.704 and the petitioners Registered Sale Deed dated 13.5.1996 for forming the road.

Prayer in WP 5412/15:

A writ of Certiorarified Mandamus or any other writ or order or direction, to call for the records from the 4th respondents impugned notice dated 6.1.2015 and quash the same and consequently direct the 1st to 4th respondents to take proper measurements on both side of the road i.e. East to Western side of the road at Ramakrishna Nagar 1st Street Melamaiyur Village Chengalpattu Taluk Kancheepuram District based on the Field Map for forming the road.

For petitioner in all the WPs : Mr. N. Kamaraj

For RR 1-4 in all the Wps : Mr. N. Sakthivel
Government Advocate

COMMON ORDER

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

Mr. N. Sakthivel, learned Government Advocate, takes notice for respondents 1 to 4 in all the writ petitions. Thus, with the consent of the learned counsel for the petitioners and the learned Government Advocate, these writ petitions are taken up for final disposal, at the admission stage itself.

2. These writ petitions are filed, calling in question, the legality and validity of notices dated 06.01.2015 issued by the fourth respondent under Section 7 of the Tamil Nadu Act 3 of 1905

(for short "the Act") and for a direction to the official respondents to take proper measurements on both sides of the road, i.e., Eastern side to Western side of Ramakrishna Nagar I Street, Melamaiyur Village Chengalpattu Taluk, Kancheepuram District, on the basis of Field Map Patta and the petitioners' registered sale deeds.

3. While questioning the legality and validity of the notices dated 06.01.2015, the petitioners have made an allegation that the private respondents, viz., M/s. Radhakrishnan, Rajan and Sasidharan are also encroachers and no action has been taken against them. Thus, no notice is required to be issued to the private respondents, at this stage.

4. By the impugned notices, the petitioners have been asked to show cause, before the District Collector, as to why they should not be evicted from the place in question and their belongings be recovered from the said place, after issuance of notice to them under Section 6 of the Act, inasmuch as they have been in occupation and enjoyment of the Government lands, sans permission.

5. Admittedly, the petitioners have submitted their objection letters to the impugned show cause notices before the official respondents and the same are pending consideration. While so, the instant writ petitions have been filed for the relief, as aforestated.

6. In a case where a representation is made stating that the alleged encroachers are in possession for a long period, it is incumbent on the authorities to verify the facts, in consultation with the Revenue authorities, on examining the revenue records and also, after making a proper survey of the said area.

7. The learned Government Advocate also fairly submits that only after passing orders under Section 6 of the Act, steps will be taken for removal of encroachment, if, on enquiry, it is found that there exists an encroachment, as claimed by the petitioners.

8. In view of the foregoing, we direct the authorities concerned to pass appropriate final orders under Section 6 of the Act within a period of six weeks from the date of receipt of a copy of this order. Needless to state that before such orders are passed, an opportunity of hearing shall be given to the alleged encroachers. It is made clear that no steps for removal of encroachment/eviction be taken till final orders are passed under Section 6 of the Act. It is further made clear that the authorities, while taking action for removal of the encroachment, should not adopt the policy of "pick and

choose". The authorities must take action against all the encroachers, after affording an opportunity of hearing, in accordance with law and on merits.

9. With the above direction and observation, these writ petitions stand disposed of. No costs. Connected Miscellaneous Petitions are closed.

Sd/-
Asst. Registrar

/true copy/

Sub Asst. Registrar.

CAD

To

1. The District Collector
Kancheepuram District
Kancheepuram
2. The Revenue Divisional Officer
Kancheepuram District
Kancheepuram
3. The Special Tahsildar
(Harijan Welfare - Land Acquisition)
Chengalpattu Taluk
Kancheepuram District
4. The Revenue Inspector
Chengalput Kuruvattam
Chengalpattu Taluk
Kancheepuram District

+1cc to Mr.N.Kamaraj, Advocate, S.R.No.11477
+1cc to the Government Pleader, S.R.No.11531

W.P. Nos.5407 to 5412 of 2015

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