

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03-03-2015

CORAM

THE HONOURABLE MR.JUSTICE SATISH K.AGNIHOTRI

AND

THE HONOURABLE MR.JUSTICE M.VENUGOPAL

WRIT PETITION Nos.5511 and 5512 of 2015

and

M.P.Nos.1, 1, 2 and 2 of 2015

M/s.Kavi Exports and Imports
Rep. By its Proprietrix
E.Suganthi
No.489, GNT Road
Thandalkazhani
Chennai 600 066

...Petitioner in WP 5511/2015

J.Ganapathy

...Petitioner in WP 5512/2015

vs

1. The District Collector
Thiruvallur District
Thiruvallur
2. The Revenue Divisional Officer
Madhavaram
Chennai
3. The Tahsildar
Madhavaram Taluk Office
Madhavaram
4. The Village Administrative Officer
Thandalkazhani-in-charge
Red Hills, Chennai
5. The Chief Engineer
Public Works Department (WRO)
Chennai Region
Chepauk, Chennai 600 005

6. The Executive Engineer (WRO)
Kosasthalaiyar Sub Division
Basin Division, Thiruvallur
7. The Overseer
Public Works Department (WRO)
Red Hills Section, Red Hills
Chennai 600 052

... Respondents in
both petitions

Writ petitions filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the entire records of the third respondent dated 16.2.2015 vide Na.Ka.No.86/2015/Aal and quashing the same and consequently, directing the first respondent to dispose the petitioners' appeal dated 24.2.2015 on merits in the presence of the petitioners.

For Petitioners : Mr.S.Saravana Kumar

For Respondents : Mr.P.S.Sivashanmugasundaram
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 all the respondents in both the writ petitions. Thus, with the consent of the learned counsel for the petitioners and the learned Special Government Pleader, 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 16.02.2015 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 first respondent to dispose of the petitioner's appeal dated 24.2.2015 on merits after affording an opportunity of personal hearing.

3.The case of the petitioners before us, is that there are 700 poor families residing in the area by way of occupying the waste land, which is belonging to the respondents 5 to 7, for more than 50 years and if the respondents 5 to 7 are really taking steps to remove the encroachment of the waste land, there are more than 3000 families to be removed in the name of re-possessing the waste land.

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 fifth respondent and also filed appeals before the first respondent 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 Special Government Pleader 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, contrary to the claim of 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. Consequently, connected miscellaneous petitions are closed.

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Sd/-
Asst. Registrar

/true copy/

Sub Asst. Registrar.

nsv

To:

1. The District Collector
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Thiruvallur
2. The Revenue Divisional Officer
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7. The Overseer
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Red Hills Section, Red Hills
Chennai 600 052

+2cc's to Mr.M.Saravana Kumar, Advocate, S.R.No.11481,11482

सत्यमेव जयते

W.P.Nos.5511 and 5512 of 2015

CTK(CO)
CA(09/03/2015)

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