

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.06.2015

CORAM:

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

W.P.Nos.7275 to 7277 of 2015
and
M.P.Nos.1, 1 & 1 of 2015

1.M.Saroja ... Petitioner in W.P.7275/2015
2.S.Natarajan ... Petitioner in W.P.7276/2015
3.S.Selvam ... Petitioner in W.P.7277/2015

Vs.

1. The District Collector,
Perambalur District,
Perambalur.
2. The Tahsildar,
O/o.Kunnam Tahsildar,
Kunnam Taluk,
Perambalur District. Respondents in all the Petitions

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India for a writ of Certiorarified Mandamus, calling for the records of the First Respondent/District Collector, Perambalur District in common proceedings No.M1/2926/2014 dated 27.01.2015 and to quash the same as illegal and unsustainable in law and consequently, directing the Second Respondent/Tahsildar, Kunnam, Perambalur District not to evict the Petitioners from their residential house at Murukkankudi Village Post, Sirumathur, Kunnam Taluk, Perambalur District.

For Petitioners : Mr.D.Bharathy
For Respondent : Mr.N.Sakthivel
Nos.1 & 2 Government Advocate

C O M M O N O R D E R

[Order of the Court was made by M.VENUGOPAL, J.]

The petitioners have preferred the instant Writ Petitions praying for passing of a Common order by this Court in calling for the records of the First Respondent/District Collector, Perambalur District in common proceedings No.M1/2926/2014 dated 27.01.2015 and to quash the same as illegal and unsustainable one in law. Further, they sought for passing of an order by this Court in directing the Second Respondent/Tahsildar, Kunnam, Perambalur District not to evict them from their residential house at Murukkankudi Village Post, Sirumathur, Kunnam Taluk, Perambalur District.

2.According to the Petitioners, they belong to poor and weaker section of the community and with great hurdles, they have renovated their houses and residing there for nearly 50 years and they do have ration card, electricity bill, property tax also received by the Sirumathur Panchayat. As a matter of fact, the property tax was accepted by the Panchayat without any objection.

3.The Learned counsel for the Petitioners contends that during the month of November 2013, some third party had created problem over the land and in view of the personal enmity against the Petitioners and at the behest of third party had influenced the Revenue Officer, Kezipuliyer who issued show cause notice during the month of January 2014 in terms of Section 6 of the Tamil Nadu Land Encroachment Act, 1905, for evicting them and dispossessing their properties.

4.At this stage, the Learned counsel for the Petitioners brings it to the notice of this Court that the Petitioners sent representations to the Revenue Officer and requested him not to pass any orders on the basis of issuance of show cause notice and permit them to live in their residing homes and also they are willing and undertake to pay the sale amount as determined by the Revenue Officials.

5.It is also further represented that the Second Respondent/Tahsildar without considering the Petitioners' representations in a proper perspective manner, has issued the eviction notice for dispossession of their entire properties and residential houses by means of an order dated 24.01.2014.

6.The prime submission of the Learned counsel for the Petitioners is that the impugned final order dated 27.01.2015 passed by the First Respondent is not valid in law as well as on facts.

7. Advancing his arguments, the Learned counsel for the petitioners submits that the First Respondent had failed to consider that the Petitioners were in possession of the land from the year 1994 onwards and moreover, UDR pattas were issued in their favour. Moreover, the First Respondent had passed a final order/proceeding dated 27.01.2015 without considering the Petitioners' explanations as per Section 7 of the Tamil Nadu Land Encroachment Act, 1905.

8. In effect, the plea taken on behalf of the Petitioners is that there is no valid reason to evict them from the said land after 50 years of residence by them and in fact, the eviction order came to be passed belatedly.

9. Lastly, it is the stand of the Petitioners that the impugned order dated 27.01.2015 was passed without ascertaining the final structure of the land wherein originally the Respondents had not mentioned the character/nature of the land as 'Government Poramboke Vaari Land' but only in the impugned order they had mentioned the same as 'Poramboke Vaari' and it is only an after thought projected by the Respondents.

10. In response, it is the contentions of the Government Advocate appearing for the Respondents 1 and 2 that disputed 'Vaari Land' in question is a 'Vaari Poramboke' and also it is the highly objectionable Poramboke and therefore, the Petitioners/encroachers shall be evicted from that land. Further, it is also pleaded on behalf of the Respondents that the impugned final order dated 27.01.2015 passed by the First Respondent is legal and in accordance with law.

11. That apart, the Learned counsel for the Respondents brings it to the notice of this Court that the Petitioners had encroached 'Government Vaari Poramboke' in S.F.No.462/4 and the revenue records clearly points out that the said survey number S.F.No.462/4 as 'Vaari Poramboke' and no malafide intention could be attributed in regard to the notice issued by the Second Respondent/Tahsildar. Furthermore, only after ascertaining the physical structure of the disputed land, it is confirmed that the land is Government Poramboke and it was encroached by the Petitioners. In fact, the Petitioners were given opportunity by the First Respondent for attending the personal hearing and ultimately, on 27.01.2015, the First Respondent/District Collector, Perambalur had issued the impugned order of eviction and added further, eviction was carried out on 15.03.2015.

12. On a careful consideration on the respective contentions and also this Court taking note of the attendant facts and circumstances of the present case in an integral manner, comes to a

resultant conclusion that the Petitioners had encroached the land in S.F.No.462/4 namely, 'Vaari Poramboke' and since it is an 'Objectionable Poramboke', petitioners were summarily evicted from the land in question. Viewed in that perspective, the final order passed by the First Respondent in proceedings No.M1/2926/2014 dated 27.01.2015 is flawless.

13.In the result, the Writ Petitions are dismissed but without costs. Before parting with the case, this Court significantly points out that if the Petitioners are hapless persons having no land even for house sites, then it is open to the concerned authorities of the Government to explore the possibilities of providing an alternate arrangements to them so as to provide atleast the basic need of shelter. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

DP

To

1. The District Collector,
Perambalur District,
Perambalur.
2. The Tahsildar,
O/o.Kunnam Tahsildar,
Kunnam Taluk,
Perambalur District.

+1cc to the Government Pleader, S.R.No.28446

W.P.Nos.7275 to 7277 of 2015
and
M.P.Nos.1, 1 & 1 of 2015

SVI(CO)
CA(18/06/2015)

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