

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2016

CORAM

THE HON'BLE MR. JUSTICE SATISH K.AGNIHOTRI
and
THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

W.P. Nos.1170 to 1176 of 2016
and 1335 to 1341 of 2016
and

W.M.P.Nos.905 to 911 of 2016 and 1099 to 1105 of 2016

Kannappan	..	Petitioner in W.P.No.1170 of 2016
Nandhakumar	..	Petitioner in W.P.No.1171 of 2016
Kamala	..	Petitioner in W.P.No.1172 of 2016
Kamalaveni	..	Petitioner in W.P.No.1173 of 2016
Ramani	..	Petitioner in W.P.No.1174 of 2016
Selvendiran	..	Petitioner in W.P.No.1175 of 2016
K.Alagumeenal	..	Petitioner in W.P.No.1176 of 2016
A.K.Chandran	..	Petitioner in W.P.No.1335 of 2016
C.Chinnakaruppan	..	Petitioner in W.P.No.1136 of 2016
Bhavani	..	Petitioner in W.P.No.1137 of 2016
Uma	..	Petitioner in W.P.No.1138 of 2016
H.Abbas	..	Petitioner in W.P.No.1139 of 2016
Amutha	..	Petitioner in W.P.No.1140 of 2016
S.Charles	..	Petitioner in W.P.No.1141 of 2016

Vs.

1.The State of Tamil Nadu rep. by
its Secretary to Government,
Public Works Department,
Fort St. George, Chennai - 9.

2.The District Collector,
Kancheepuram District,
Kancheepuram.

3.The Executive Engineer,
Public Works Department,
Keezh Palaru Vadinila Kottam,
Kancheepuram.

4.The Executive Engineer,
TANGEDCO,
Kancheepuram District,
Kancheepuram.

.. Respondents

Prayer in W.P.No.1170 of 2016: Petition filed under Article 226 of The Constitution of India praying for the issuance of a writ of declaration declaring the notice dated Nil threatening action alleging encroachment of the land comprised in Survey No.223, No.16/515, (in WP 1170/2016), Old No.5/439, New No.5/503(in WP 1171/2016), No.1/170 (in WP 1172/2016) No.5/503 (in WP 1173/2016), 1/152 (in WP 1174/2016) No.1 1/164 (in WP 1175/2016), No.5/516) (in WP 1176/2016), bearing old No.5/515, New No.1/160, (in WP 1335/2016), No.16/515, (in WP 1336/16), No.5/440 (in WP 1337/16) No.5/503 (in WP 1338/16), No.1/184 (in WP 1339/16), No.5/503 (in WP 1340/16), and No.1/180 (in WP 1341/16), respectively. Vandalur Walajabad Main Road, Attanancheri, Salamangalam Koot Road, Padappai, Kanchipuram District by the third respondent without by affording an opportunity of hearing to the petitioner in accordance with the provisions of the Land Encroachment Act and all proceedings taken thereafter as null and void.

For Petitioner .. Mr.P.S.Amalraj
in all the W.Ps

For Respondents .. Ms.A.Srijayanthi,
Spl. Govt. Pleader for R1 to R3
in all the W.Ps

Mr.R.Singaravelan, Sr. Counsel
Mr.K.Sivasubramanian
Advocate Commissioners

COMMON ORDER

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

Notice to the fourth respondent is dispensed with, at this stage, as no adverse order is passed against them in this writ petition. With the consent of the learned counsel appearing for the petitioners and the learned Special Government Pleader appearing for respondents 1 to 3, the writ petitions are taken up for final disposal.

2. Seeking a declaration to the effect that the notice dated Nil issued by the third respondent, whereunder the alleged encroachers of the water catchment land of the land situate at Survey No.223, Athanancherry Village, Sriperumpudur Taluk, were directed to vacate the same within three days, failing which,

the encroachment will be removed, is null and void, the petitioners have preferred these writ petitions.

3.It is the case of the petitioners that they are in peaceful possession, enjoyment and occupation of the properties in question and they have also obtained electricity connection for their houses. When a notice similar to that of the one impugned in these writ petitions was issued in the year 2003, some of the residents filed W.P.No.6404 of 2003 and the said notice was quashed with liberty to the respondents therein to proceed afresh by issuing notice under Section 7 of the Land Encroachment Act. Pursuant to the said order, the petitioners are in occupation of their respective properties. While so, the notice impugned in these writ petitions was issued, without affording any opportunity of hearing to the petitioners. Thus the petitioners are before this Court with these writ petitions.

4.In response, respondents 1 and 3 have filed counter affidavit. It is submitted that the allegation of the petitioners that they were not served with any notice except the public notice dated 15 December 2015 is factually incorrect. The petitioners were served with individual notices dated 26 October 2010 under the provisions of Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007. Thereafter, action was initiated as the encroachment has been made in the water tank area. The removal of encroachment was done, pursuant to the judgment dated 27 June 2015 passed by a Division Bench of this Court in L.P.Krishnan Vs. State of Tamil Nadu rep. by its Secretary to Government, Department of Revenue, Fort St. George, Chennai¹.

5.The statement of the authorities that the encroachment was made in the water body as aforesaid was disputed by the petitioners. Accordingly, a Committee comprising of two advocates at the instance of the petitioners was appointed to make survey of the area in the presence of the petitioners and revenue officials and submit a report thereafter. Accordingly, the said Advocates Committee submitted a report observing that the petitioners have made encroachments in eri poramboke, which is a water body.

6.Having considered all aspects of the matter and also the steps taken by the authorities for removal of the encroachment, no further direction is required in the writ petitions. Accordingly, the writ petitions are dismissed. No

¹W.P.No.20186 of 2000

costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

mmi/cad

To

- 1.The Secretary to Government,
Public Works Department,
Fort St. George, Chennai - 9.
- 2.The District Collector,
Kancheepuram District,
Kancheepuram.
- 3.The Executive Engineer,
Public Works Department,
Keezh Palaru Vadinila Kottam,
Kancheepuram.
- 4.The Executive Engineer,
TANGEDCO,
Kancheepuram District,
Kancheepuram.

+14 ccs to Mr.P.S.Amalraj, Advocate, sr.26502 & 25687
+1 cc to The Government Pleader, sr.25869

सत्यमेव जयते

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and 1335 to 1341 of 2016

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