

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.10.2016

CORAM :

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
AND

The Hon'ble MR.JUSTICE R.MAHADEVAN
W.P. Nos.1823, 1703, 1127, 3022 & 3648 of 2015

Mallika .. Petitioner in
W.P.1823 of 2015
S.Agilan .. Petitioner in
W.P.1703 of 2015
M.Dhanalakshmi .. Petitioner in
W.P.1127 of 2015
R.Sri Raman .. Petitioner in
W.P.3022 of 2015
Ranganayagi .. Petitioner in
W.P.3648 of 2015

1.The District Collector,
Thiruvallur District,
Thiruvallur - 602 001.

2.The Thasildar,
Thiruvallur Taluk,
Thiruvallur - 602 001.

3.The Revenue Inspector,
Thiruvor Firka,
Thiruvallur Taluk and District.

4.The Village Administrative Officer,
Veppampattu Village,
Veppampattu,
Thiruvallur Taluk and District,
Pin-602 024.

.. Respondents in all

Petitions filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorari calling for the records pertaining to the notice issued by the third respondent dated 30.12.2014 under Act 3 Section 6 of 1905, to vacate the petitioners house site situated at 89, Veppampatti Village and quash the same.

For Petitioners : Mr.Prof.M.Udaya Bhanu
For Respondents : Mr.R.Vijayakumar
Addl. G.P. for R1 to R4

COMMON ORDER

(Order of the Court was made by The Hon'ble Chief Justice)

The petitioners have filed the writ petitions seeking to assail the order passed pertaining to the notices issued by respondent No.3/Revenue Inspector under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 in respect of the house sites stated to be occupied by the petitioners at No.89, Veppampattu village.

2. The case status report has been filed before us, which purports to have been signed on behalf of the Tahsildar, Tiruvallur.

3. It is stated therein that in terms of the orders passed on 10.12.2014 in W.P.No.29298 of 2014, the District Collector/respondent No.1 was directed to consider the representation of the petitioner therein and consequently, an enquiry was held and the encroachment was found in the form of house in S.No.92/3. The wall was removed after notice. In the course of enquiry, it was found that the Government land in "Vannankuttai poramboke" in S.No.92/3 was encroached by way of huts by the present petitioners and others, which resulted in notices being issued.

4. The learned counsel for the petitioners states that even though the land was classified as "Kuttai" as per the records produced by the respondents, that would only imply there is a Pond. It is also stated that not only the petitioners numbering five, but there are other people in the area would need rehabilitation by alternative sites, if they have to be removed from the site. The learned counsel for the petitioners has expressed some apprehension on account of the fact that the Tahsildar was asked to submit a report to the District Collector and even the District Collector has not bestowed his consideration to the various aspects, apart from the fact that

the report has not even been signed by the Tahsildar.

5. We are of the view that once the area is found to be a water body, in view of the Full Bench judgment of this Court in T.K.Shanmugam vs. State of Tamil Nadu, 2015 WLR 1029, it is not possible to state that the water areas should not be cleared. However, the social aspect of rehabilitation is also important.

6. We are also of the view that the District Collector/respondent No.1 should bestow his consideration into the matter to see how best to deal with the situation both in respect of clearing of the area and the rehabilitation measures required. This exercise be carried out and a decision be taken within a maximum period of three months of the receipt of the copy of this order.

7. The learned counsel for the petitioners suggests that since some rehabilitation measures are on by allotting plots in Morai village, Avadi Taluk, the case of the petitioners may also be considered keeping in mind the availability of the plots.

8. The writ petitions, accordingly, stand disposed of. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The District Collector,
Thiruvallur District,
Thiruvallur - 602 001.

2.The Thasildar,
Thiruvallur Taluk,
Thiruvallur - 602 001.

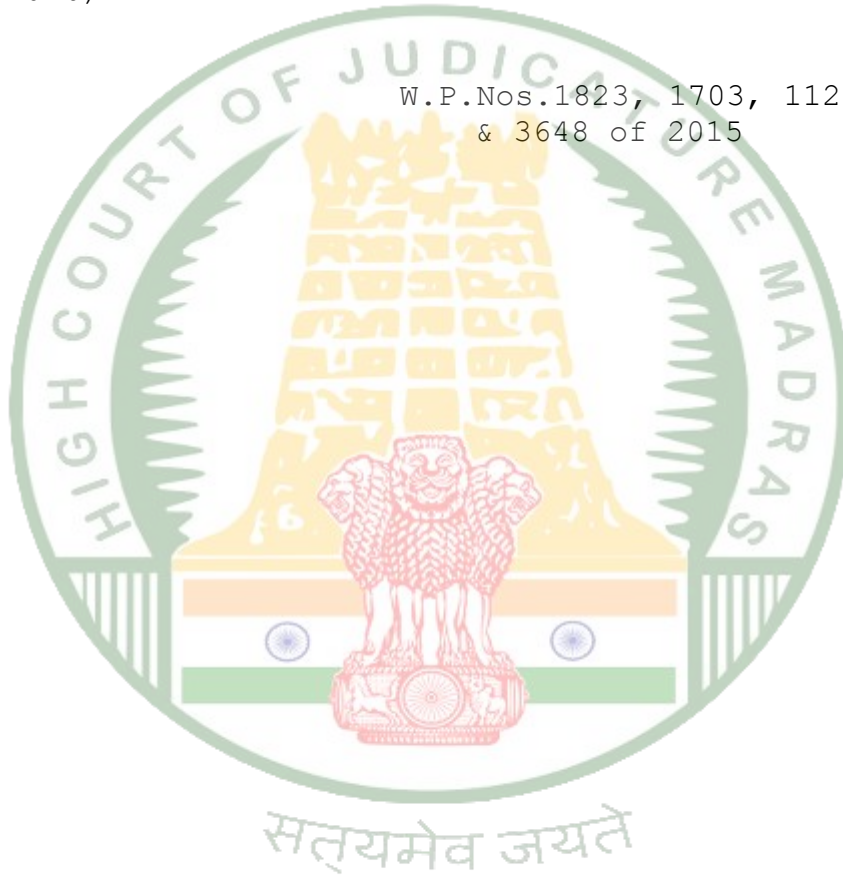
3.The Revenue Inspector,
Thiruvor Firka,
Thiruvallur Taluk and District.

4.The Village Administrative Officer,
Veppampattu Village,
Veppampattu,
Thiruvallur Taluk and District,
Pin-602 024.

+5cc to Mr.M. Udhaya Bhanu, Advocate,
S.R.No.61063,61092,61066,61065 and 61064
+1cc to the Government Pleader, S.R.No.61123

ctr (CO)
md (07/11/2016)

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& 3648 of 2015



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