

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.09.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

Writ Petition Nos.25942 to 25959 of 2016
and
W.M.P.Nos.22177 to 22194 of 2016

S.Soundarajan	...Petitioner in WP.25942/2016
S.Mahendran	...Petitioner in WP.25943/2016
S.Amudha	...Petitioner in WP.25944/2016
M.Ekambaram	...Petitioner in WP.25945/2016
P.Prema	...Petitioner in WP.25946/2016
M.Anjalam	...Petitioner in WP.25947/2016
Amalamary	...Petitioner in WP.25948/2016
S.Devakumar	...Petitioner in WP.25949/2016
K.Pandurangan	...Petitioner in WP.25950/2016
M.Vijayan	...Petitioner in WP.25951/2016
S.Vasanth	...Petitioner in WP.25952/2016
C.Jayaraman	...Petitioner in WP.25953/2016
R.Gunasekaran	...Petitioner in WP.25954/2016
A.Dhanislas	...Petitioner in WP.25955/2016
V.K.Ezhumalai	...Petitioner in WP.25956/2016
R.Arumugam	...Petitioner in WP.25957/2016
R.Thirunavukarasu	...Petitioner in WP.25958/2016
R.Thiyageswari	...Petitioner in WP.25959/2016

Vs.

1.The District Collector,
Thiruvallur District, Thiruvallur.

2.The Deputy Tahsildar,
Saidapet, Chennai-600 015.

3.The Junior Engineer,
Irrigation Section,
Cholavaram (WRO)
Red Hills, Chennai- 600 052.

4.The Section Officer,
Water Resource Department,
Irrigation Section,
Red Hills, Chennai - 600 052.

...Respondents
in all WPs

These Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned eviction notices in No.K-11/B.A/2016/07/2016 of the fourth respondent dated 15.07.2016 and quash the same and consequently direct the respondents not to evict the petitioners from Survey No.567 of Thirumullaivoyal Village, Avadi Taluk, Thiruvallur District.

For Petitioners : Mr.V.Raghavachari for
in all WPs Mrs.V.S.Usha Rani

For Respondents : Mr.P.S.Sivashanmugasundaram, SGP
in all WPs

COMMON ORDER

(Order of the Court was made by HULUVADI G. RAMESH,J.)

Heard Mr.V.Raghavachari, learned counsel representing the counsel for the petitioners and Mr.P.S.Sivashanmugasundaram, learned Special Government Pleader for the respondents.

2. The petitioners have come forward with these writ petitions to quash the eviction notices dated 15.07.2016 issued by the fourth respondent and consequently, direct the respondents not to evict them from their respective lands in S.No.567 of Thirumullaivoyal Village, Avadi Taluk, Thiruvallur District.

3. The case of the petitioners is that the lands covered in Survey No.567 of Thirumullaivoyal Village, Avadi Taluk, Thiruvallur District have been classified as "Grama natham" in the revenue records. The petitioners have purchased their respective properties in Thirumullaivoyal Village and they have been in peaceful possession and enjoyment of the same by constructing houses. Subsequently, they have obtained all the necessary connections, such as, electricity service connection, drinking water connection, etc. They have also been issued with family card and Aadhar Card. While so, the third respondent had attempted to evict the petitioners and other occupants in the lands in S.No.567 by issuing notices under the Tamil Nadu Land Encroachment Act, wherein, it has been stated that the lands in S.No.567 are "Grama natham" and the said lands were encroached by them. Aggrieved over the same, the petitioners and others had approached this Court by filing a batch of writ petitions in W.P.No.36113 of 2007 etc. and obtained an order of status quo. Pending the said writ petitions, the fourth respondent has issued notices dated 15.07.2016 in Form III under Rule 6(1) of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act and Rules, 2007, calling upon the occupants to remove the encroachment within 21 days alleging that they have encroached upon 'Eri Poramboke' situated in Survey No.567 called as 'Arabath Eri', which is a water catchment area belonging to the Public Works Department of Water Resources organization, failing which, the department would remove the same and collect the expenditure from the occupants. Aggrieved over the same, the petitioners are before this Court with the present writ petitions.

4. Learned counsel for the petitioners submitted that the land covered in Survey No.567 of Thirumullaivoyal Village has been classified as "Grama Natham" in the revenue records and not as "Eri poramboke" as alleged by the respondents. He further submitted that the petitioners have not at all encroached upon any poramboke land and they have purchased their respective properties by valid sale deeds and have been in peaceful possession and enjoyment of the same by constructing houses and by obtaining all the necessary connections. Learned counsel also submitted that the petitioners along with other occupants have already filed a batch of writ petitions in W.P.No.36116 of 2007 etc. against the earlier eviction notices issued by the third respondent and obtained an order of status quo, which is in force. In such circumstances, the fourth respondent has no authority to issue fresh eviction notices, which are hence, liable to be set aside.

5. A common counter affidavit has been filed by the fourth respondent, inter alia contending that the entire extent in S.F.No.567 of Thirumullaivoyal Village, Avadi Taluk,

Thiruvallur District has been classified as an Eri in the village records, which comes under the maintenance of the Water Resources Department and it is not a natham poromboke as averred by the petitioners herein. It is further stated therein that the petitioners and others had encroached the lands in S.F.No.567 and they cannot claim any proprietary right in the land, which is predominantly a water body. Similarly, the necessary connections, such as, drinking water connection, electricity service connection etc., if any, granted to the extent encroached upon by the petitioners, cannot be construed as if the petitioners have been granted the proprietary right in the water body. The counter affidavit further reads that one Dr.K.R.Ramasamy @ Traffic Ramasamy filed a writ petition in W.P.No.4074 of 2016, praying for removal of encroachments in various survey numbers and in Arafath lake in S.F.No.567 of Thirumullaivoyal Village, Avadi Taluk, Thiruvallur District and this Court by an order dated 04.02.2016, disposed of the said writ petition, directing the respondent authorities to dispose of the representation dated 03.11.2014 within a period of two months, after issuing notice to all the parties concerned. Pursuant to the same, the Revenue authorities had surveyed the lands in S.F.No.567 and identified the encroachments and thereafter, issued notices to the encroachers under the provisions of the Tamil Nadu Protection of Tank and Eviction of Encroachments Act, 2007.

6. The Tahsildar, Avadi Taluk, Thiruvallur District has also filed a common counter affidavit, wherein, it is stated that as per the Revenue records 1919, the land in Survey No.567 of Thirumullaivoyal Village, Avadi Taluk, Tiruvallur District has been classified as 'Eri', which comes under the maintenance of the Public works department. It is further stated therein that since the post of Zonal Deputy Tahsildar has been created only in the year 1991 by G.O.Ms.No.92 Revenue Department dated 15.06.1991, the so called eviction notices issued by the Zonal Deputy Tahsildar, Ambattur in the year 1981 stating that the land in S.No.567 has been classified as "Grama Natham", are fabricated documents and the veracity of the same is very much doubted. The counter affidavit also proceeds to state that the petitioners have encroached the water catchment area and constructed pucca houses. If such encroachment is not removed, it will be a problem for free flow of water during rainy reason and ultimately, the public at large will be affected.

7. We have heard the learned Special Government Pleader on the submissions made by the learned counsel for the petitioner and also perused the materials placed before us.

8. In these writ petitions, the petitioners have challenged the impugned eviction notices dated 15.07.2016 issued

by the fourth respondent, to which, they have already submitted their reply on 29.07.2016. In such circumstances, it is for the respondents to consider the reply dated 29.07.2016 submitted by the petitioners and take a decision, with regard to removal of encroachment made in S.No.567, in accordance with law, of-course, after affording an opportunity of personal hearing to the petitioners as well as to all the parties, who are likely to be affected. It is open to the petitioners to raise all their submissions along with supporting documents to the respondents at the time of personal hearing. The said exercise shall be completed within a period of two months from the date of receipt of a copy of this order.

9. Accordingly, all the writ petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

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To

1.The District Collector,
Thiruvallur District, Thiruvallur.

2.The Deputy Tahsildar,
Saidapet, Chennai-600 015.

3.The Junior Engineer,
Irrigation Section,
Cholavaram (WRO)
Red Hills,
Chennai- 600 052.

4.The Section Officer
Water Resource Department,
Irrigation Section,
Redhills, Chennai - 600 052.

17 ccs to M/s. V.S. Usharani, Advocate, Sr 53040
1 cc to Government Pleader, Sr. 53478

W.P.Nos.25942 to 25959 of 2016

RV (CO)
kk 12/11