

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 4.8.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P.No.27282 of 2016
and
W.M.P.No.23458 of 2016

1 Mrs.Palaniammal
2 Mrs.Chellammal
3 Mrs.Bavayee
4 Mrs.Valliammal
5 Mrs.Singari
6 Mrs.Valliammal
7 Muthammal

Petitioners

vs.

1 The Commissioner of Land Administration
Office of Commissioner of
Land Administration
Elizhagam Chennai
2 The District Collector
Collectorate Erode District
3 The District Revenue Officer
Collectorate Erode District
4 The Tahsildar
Taluk Office Anthiyur Taluk
Erode District

Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus calling for the records from the 4th respondent's Notice Na.Ka.9568/ 2015 A1 dated 22.7.2016 and quash the same and consequently to direct the 1st respondent to permit the petitioners to reside in their respective houses Survey No.498/10 of Kuppandampalayam Village, Karatur Aayakattu Kudiyruppu, Anthiyur Taluk, Erode District.

For petitioner : Mr.P.Saravanan

For Respondents : Mr.P.S.Sivashanmugasundaram,
Special Government Pleader

ORDER

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

Heard the learned counsel appearing for the parties.

2. The writ petition has been filed seeking issuance of a writ of certiorarified mandamus calling for the records from the 4th respondent's Notice Na.Ka.9568/ 2015 A1 dated 22.7.2016 and quash the same and consequently to direct the 1st respondent to permit the petitioners to reside in their respective houses Survey No.498/10 of Kupbandampalayam Village, Karatur Aayakattu Kudiyiruppu, Anthiyur Taluk, Erode District.

3. The case of the petitioners is that they are the residents of the property in question for more than thirty years by paying house tax regularly and when they approached the authorities for issuance of patta, they had been issued with show cause notice of eviction dated 27.9.2015, by the Revenue Inspector and subsequently, with notice of eviction dated 7.10.2015, without accepting the reply dated 28.9.2015, submitted by the petitioners for the show cause notice. It is the further case of the petitioners that in a writ petition filed by them, aggrieved by the action of the authorities, in W.P.No.33921 of 2016, this court, while dismissing the same, by its order dated 27.10.2015, has granted liberty to the petitioners to raise their pleas before the appellate authority and accordingly, the petitioners had filed an appeal before the second respondent, which was also dismissed vide proceedings in Na.Ka.29593/2015/voo2 dated 18.1.2016. It appears that aggrieved by the said order, the petitioners had preferred a revision before the first respondent on 17.2.2016. Pending such revision, the impugned order came to be passed. Aggrieved against the same, the present revision has been filed.

4. A Division Bench of this court reported in NATARAJAN, A. v. THE COMMISSIONER, ETC. & OTHERS (1996-2-LW 553) held that in the case of an appeal or a revision, preferred against the order, directing eviction under section 10 or section 10A of the Tamil Nadu Land Encroachment Act, 1905, respectively by the person, who is directed to be evicted, if an interim order is not granted, it would result in eviction of the appellant or revision petitioner as the case may be, before deciding the case and it would be travesty of justice if the order of eviction is executed and given effect to even before the appeal or revision,

as the case may be is decided.

5. Admittedly, the revision filed by the petitioners is pending before the first respondent. In the circumstances, pending disposal of the revision by the first respondent, the respondent-authorities shall not take any coercive steps. However, the respondent-authority shall dispose of the pending revision, on merits and in accordance with law, within two months from the date of receipt of copy of this order. The writ petition is disposed of accordingly. The connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

ssk.

To:

- 1 The Commissioner of Land Administration
Office of Commissioner of
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- 2 The District Collector
Collectorate Erode District
- 3 The District Revenue Officer
Collectorate Erode District
- 4 The Tahsildar
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+1 cc to Mr.P.Saravanan Advocate sr44328
+1 cc to the Government Pleader sr 44855

W.P.No.27282 of 2016

aa02/09/2016