

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.10.2016

CORAM :

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

The Hon'ble MR.JUSTICE R.MAHADEVAN

W.P. No.31369 of 2016
and W.M.P.No.27216 and 27217 of 2016

- 1.E.Kasi
- 2.M.Munisamy
- 3.S.Venkatesan
- 4.S.Vinayagam
- 5.R.Selvi
- 6.S.Chitra
- 7.M.Thanjammal

... Petitioners

-vs-

- 1.The Assistant Engineer,
Public Works Department (WRO),
(Irrigation Section), Gudiyattam
Taluk, Vellore District.
- 2.The District Collector,
Vellore District, Vellore.
- 3.The Tahsildar,
Gudiyattam Taluk, Vellore District.
- 4.The Inspector of Police,
Gudiyattam Taluk Police Station,
Gudiyattam Taluk, Vellore District.
- 5.The Village Administrative Officer,
Agravaram Village, Gudiyattam Taluk,
Vellore District.
- 6.The Panchayat President,
Agravaram Village Panchayat,
Gudiyattam Taluk, Vellore District.

- 7.G.Raman
(R-7 impleaded as per order of Court
dt. 18.10.2016 in WMP.31395 of 2016)

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorari to call for the records in connection with the impugned notice dated 10.08.2016 issued by the 1st respondent under Form III under Section 6(1) of the Tamilnadu Land Encroachment Act and quash the same.

For Petitioners : Mr.I.Abraham
For Respondents : Mr.T.N.Rajagopalan
Spl.G.P. For RR 1 to 6
: Mr.K.A.Ravindran for R-7

O R D E R

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

The petitioners have filed the present petition seeking to assail the impugned notice dated 10.08.2016 issued by the Assistant Engineer, P.W.D. / first respondent in Form III under Rule 6 (1) of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Rules, 2007 (hereinafter referred to as 'the said Rules') framed under powers conferred under Section 13 (1) of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007 (hereinafter referred to as 'the said Act').

2. There has been previous history to the litigation inasmuch as a writ petition was filed by the seventh respondent herein being W.P.No.10323 of 2015 in which orders were passed on 27.04.2015 by a Division Bench. The writ petition sought directions for consideration of the representations of the seventh respondent herein to remove encroachments in Perumbodi river channel situated in S.No.83, Perumbodi Village, Gudiyattam Taluk, within a stipulated time period. In terms of the said order, it was found that notices under Rule 6 of the said Rules in Form III had already been issued. This is the same area with which the petitioners are concerned being amongst the other persons residing there.

3. Thereafter, a writ petition No.27561 of 2015 was filed by eight petitioners, seven of them are before this Court, praying for restraint against interfering with their peaceful possession. In those proceedings, the stand of the seventh respondent herein was recorded that there were encroachments on water channel qua which orders had been passed by the Division Bench. The writ petition was disposed of by the learned Single Judge on 01.02.2016 observing that since notices had already been issued, action in accordance with law will be taken.

4.Now, once again, the seven petitioners have approached the Court seeking to assail the notice.

5.On our query, learned counsel for the petitioners states that they have sent a response to the notice on 16.08.2016. A perusal of the said response shows that there are 150 families residing in the same village. Their plea, in fact, is to hold an appropriate enquiry and to provide alternative accommodation to the petitioners. The proceedings aforesaid shows that the area in question is a tank. There is no defence available to the petitioners as they do not have any patta nor could they have been issued, the area being a tank. Thus, the only question is whether an endeavour can be made to rehabilitate the petitioners under any scheme of the respondent Government. This is a matter for the respondent authorities to examine.

6.Learned counsel for the petitioner points out that in similar situation in W.P.Nos.27765 to 27787 of 2015, vide order dated 04.09.2015, the Division Bench had opined that while there was necessity to protect the national wealth in the form of Eri poramboke, pond, tank, forest, etc., if there is an issue of landless people and housing for them involved, the authorities are expected to consider the same and make alternative arrangements so as to provide at least basic needs of shelter.

7.We, on parity, thus direct the respondent authorities to take a decision on the issue of rehabilitation of the eligible persons within a period of three (3) months from today. Beyond this no direction can be issued in the present petition nor is the challenge to the impugned notice under Rule 6 of the said Rules in Form III sustainable.

8.Writ petition, accordingly, stands disposed of in the aforesaid terms. No costs. Consequently, W.M.P.Nos.27216 and 27217 of 2016 stand closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

sra

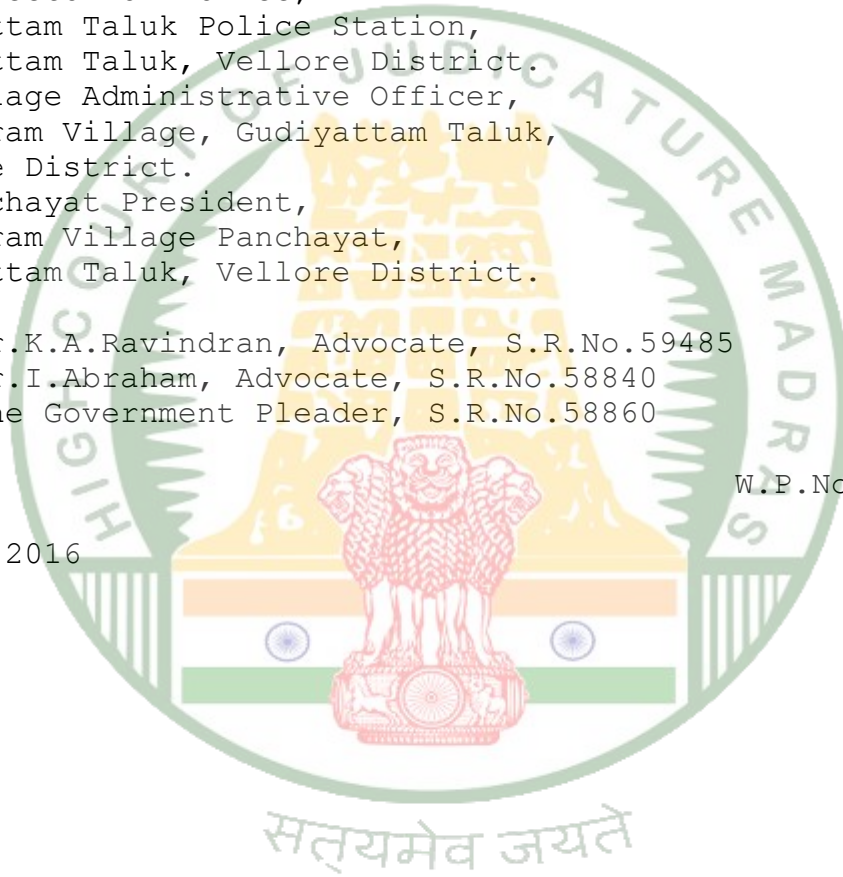
To

- 1.The Assistant Engineer,
Public Works Department (WRO),
(Irrigation Section), Gudiyattam
Taluk, Vellore District.
- 2.The District Collector,
Vellore District, Vellore.
- 3.The Tahsildar,
Gudiyattam Taluk, Vellore District.
- 4.The Inspector of Police,
Gudiyattam Taluk Police Station,
Gudiyattam Taluk, Vellore District.
- 5.The Village Administrative Officer,
Agravaram Village, Gudiyattam Taluk,
Vellore District.
- 6.The Panchayat President,
Agravaram Village Panchayat,
Gudiyattam Taluk, Vellore District.

+1cc to Mr.K.A.Ravindran, Advocate, S.R.No.59485
+1cc to Mr.I.Abraham, Advocate, S.R.No.58840
+1cc to the Government Pleader, S.R.No.58860

Trm(co)
pmk.12.11.2016

W.P.No.31369 of 2016



WEB COPY