

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2016

CORAM

THE HON'BLE MR.JUSTICE M.VENUGOPAL
AND
THE HON'BLE DR. JUSTICE S. VIMALA

W.P.Nos. 4038 to 4053 of 2016
and
W.M.P.Nos. 3375 to 3390 of 2016

Mr. G. Arulsamy	...	Petitioner in W.P.4038/16
R.Kasthuri	...	Petitioner in W.P.4039/16
T.Arumugam	...	Petitioner in W.P.4040/16
V.Ponmani	...	Petitioner in W.P.4041/16
A.Veerammal	...	Petitioner in W.P.4042/16
M.Senthamarai	...	Petitioner in W.P.4043/16
A.Rukmani	...	Petitioner in W.P.4044/16
P.Chandran	...	Petitioner in W.P.4045/16
K.Eswari	...	Petitioner in W.P.4046/16
K.Krishnan	...	Petitioner in W.P.4047/16
M.Subramani	...	Petitioner in W.P.4048/16
R.Selvi	...	Petitioner in W.P.4049/16
P.Sarasu	...	Petitioner in W.P.4050/16
N.Rathinammal	...	Petitioner in W.P.4051/16
A.Pandian	...	Petitioner in W.P.4052/16
S.Kolandhai samy	...	Petitioner in W.P.4053/16

Vs.

1. The State of Tamil Nadu
rep. By its Secretary,
Revenue Department,
Fort St. George,
Chennai 600 009.
 2. The District Collector,
Erode District,
Erode.
 3. The Assistant Executive Engineer,
Lower Bhavani Basin Sub-Division,
Erode 638 002.
- .. Respondents in all MPS

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Common Prayer

These writ petitions are filed under Article 226 of the Constitution of India praying to issue a writ of Certiorari to call for the records of the third respondent in its impugned notice dated 25.01.2016 and quash the same.

For Petitioner : Mr. AR.L. Sundaresan
Sr. Counsel
for
M/S Jijaa

For Respondents: Mr. P.S.Sivashanmugasundaram
Spl. Govt. Pleader

COMMON ORDER

(Order of the Court was made by M. VENUGOPAL, J.)

Heard Mr.AR.L.Sundaresan, learned senior counsel appearing for the petitioners and Mr.P.S.Sivashanmugha Sundaram, learned Special Government Pleader, who accepts notice on behalf of the respondents.

2.This Court, with the consent of the respective counsels, has taken up the present writ petitions for final disposal at the admission stage itself.

3.Assailing the validity and legality of the issuance of the notices dated 25 January 2016 under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 (for short 'the Act'), calling upon the petitioners to remove the encroachment, they have come up with the present writ petitions on the ground that the notices were issued without providing enough opportunity of hearing to them and this has resulted in serious miscarriage of justice.

4.Learned senior counsel appearing for the petitioners urges before this Court that Section 7 of the Act visualizes issuance of notice and also providing opportunity of hearing before passing an order/notice under Section 6 of the Act.

5.In response, it is the submission of the learned Special Government Pleader appearing for the respondents that in the impugned Section 6 notices, there is no reference to any of the notices issued under Section 7 of the Act, granting adequate time to the petitioners to file their response to the same. Later, the authorities may be permitted to take action on merits in accordance with law.

6. On a careful consideration of the respective contentions, at this stage, this Court is of the considered view that the submissions advanced on behalf of the respondents are quite reasonable and the same are accepted. In the present cases on hand, admittedly, though notices were issued under Section 6 of the Act, this Court directs that such notices issued under Section 6 of the Act be treated as notices under Section 7 of the Act and accordingly, the petitioners are granted three weeks' time to file reply, putting forward their cases before the concerned authorities. Thereafter, the authorities, after taking into account the petitioners' reply, shall pass suitable/appropriate orders and take action in accordance with Law and on their own merits. If it is found that there is encroachment, necessary steps for removal of the same shall be taken within a period of three weeks thereafter.

7. With the aforesaid observations and directions, these writ petitions stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary,
The State of Tamil Nadu
Revenue Department,
Fort St. George,
Chennai 600 009.

2. The District Collector,
Erode District,
Erode.

3. The Assistant Executive Engineer,
Lower Bhavani Basin Sub-Division,
Erode 638 002.

+1cc to Mr.V.S.Kesavan, Advocate, S.R.No.7411
+1cc to Mr.Jijaa, Advocate, S.R.No.7646
+1cc to the Government Pleader, S.R.No.7498

W.P.Nos. 4038 to 4053 of 2016

ksj (CO)
srg (08/02/2016)



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