



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 19.12.2016
CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM
and
THE HONOURABLE MR.JUSTICE P.KALAIYARASAN

W.P(MD)Nos.24267 and 24268 of 2016
and
W.M.P(MD)Nos.17530 to 17532 of 2016

W.P(MD)No.24267 of 2016:

S.Antony .. Petitioner
Vs.

1.The District Collector,
Tirunelveli District,Tirunelveli.

2.The Tahsildar,
Palayamkottai Taluk,
Tirunelveli District.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the second respondent made in Section 7 notice under Tamilnadu Act III of 1905 dated 21.09.2016 and Section 6 notice under Tamilnadu Act III of 1905 dated 06.10.2016 and quash the same as devoid of merits and direct the respondents to restore the possession of the property in Survey No.81/2A2 of Vijayaragava Mudaliar Chathiram Village, Palayamkottai Taluk, Tirunelveli District with the petitioner which was illegally taken from the petitioner on 08.11.2016.

For Petitioner : Mr.Ananth C.Rajesh
For Respondents : Mr.R.Velmurugan,
Government Advocate.

W.P(MD)No.24268 of 2016:

S.Periasamy .. Petitioner

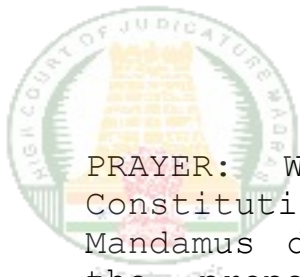
Vs.

1.The District Collector,
Tirunelveli District, Tirunelveli.

<https://hccourt.gov.in/hccourts/>

2.The Tahsildar,
Palayamkottai Taluk,
Tirunelveli District.

.. Respondents



PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents to restore the possession of the property in Survey No.81/2A2 of Vijayaragava Mudaliar Chathiram Village, Palayamkottai Taluk, Tirunelveli District with the petitioner which was illegally taken from the petitioner on 08.11.2016 and consequently restraining the respondents from interfering in the peaceful possession and enjoyment of the said property without due process of law.

For Petitioner : Mr. Ananth C. Rajesh
For Respondents : Mr. R. Velmurugan,
Government Advocate.

COMMON ORDER

[Common Order of the Court was made by A. SELVAM, J.]

W.P(MD)No.24267 of 2016 has been filed under Article 226 of the Constitution of India praying to call for records relating to the notices dated 21.09.2016 and 06.10.2016 and quash the same and also to restore possession, by way of issuing a writ of certiorarified mandamus.

2.W.P(MD)No.24268 of 2016 has been filed under Article 226 of the Constitution of India praying to direct the respondents to restore possession of the property mentioned therein to the petitioner, by way of issuing a writ of mandamus.

3.It is averred in both petitions that Survey No.15/2 of Rajagopalapuram Village, Arokiyanathapuram Village is nothing, but a sarkar punjai. The petitioners have no connection whatsoever with Survey No.15/2 and their lands are situate in Survey No.81/2A2 of Vijayaragava Mudaliar Chathiram Village. Even though the petitioners have no connection whatsoever with Survey No.15/2, the second respondent has initially issued Section 7 notice under Tamil Nadu Land Encroachment Act, 1905 and subsequently he has issued a notice under Section 6 of the said Act. Under the said circumstances, these writ petitions have been filed for getting the relief sought therein.

4.Mr.R.Velmurugan, learned Government Advocate, has taken notice for the respondents.

5.The specific contention putforth on the side of the petitioners is that the petitioners have no connection whatsoever with Survey No.15/2, Rajagopalapuram Village, Arokiyanathapuram Village and their lands are situate in different survey number and village. But the second respondent without knowing the actual encroachers has erroneously issued the notices mentioned in the petition. Under the said circumstances, the



present writ petitions have been filed for getting the relief sought therein.

6.The learned Government Advocate appearing for the respondents has contended that in Government records Survey No.15/2 has been classified as sarkar punjai and since the petitioners have encroached the same, notices under Sections 7 and 6 of the Land Encroachment Act, 1905 have been issued by the second respondent and the same are not illegal and therefore the relief sought in the writ petitions cannot be granted.

7.As adverted to earlier, the specific case of the petitioners is that they have not encroached Survey No.15/2. Since on the side of the petitioners, such a specific stand has been taken, no document has been filed on the side of the respondents for the purpose of ascertaining the encroachments alleged to have been made by the petitioners in Survey No.15/2 and therefore the notices under Sections 7 and 6 of the said Act are liable to be quashed.

8.In fine, W.P(MD)No.24267 of 2016 is allowed in part without costs and the notices dated dated 21.09.2016 and 06.10.2016 issued by the second respondent are quashed. However the second respondent is at liberty to find out the real encroachers and take appropriate action as per law. Consequently, connected Miscellaneous Petitions are closed.

9.Since the second respondent has been directed to take proper action against encroachments, the relief sought in W.P(MD) No.24268 of 2016 cannot be granted and therefore the same is dismissed without costs. Consequently, connected Miscellaneous Petition is dismissed.

Sd/-
Deputy Registrar(Admn.)

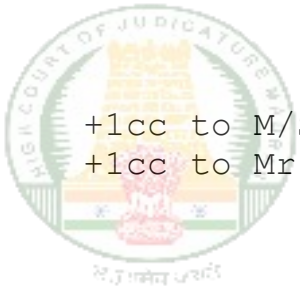
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Sub Assistant Registrar

To

1.The District Collector,
Tirunelveli District,
Tirunelveli.

2.The Tahsildar,
Palayamkottai Taluk,
Tirunelveli District.



+1cc to M/S THE SPECIAL GOVERNMENT PLEADER, SR.NO.81890
+1cc to Mr.Ananth C.Rajesh, Advocate Sr.No.81743

WEB COPY

COMMON ORDER MADE IN
W.P (MD) Nos.24267 and 24268 of 2016
and
W.M.P (MD) Nos.17530 to 17532 of 2016
19.12.2016

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