

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2017

CORAM

THE HON'BLE MR.HULUVADI G.RAMESH, ACTING CHIEF JUSTICE
AND

THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

W.P.Nos.6360 & 6361 of 2017
and
W.M.P.Nos.6858 & 6859 of 2017

C.Anandan .. Petitioner in W.P.No.6360/2017

A.Rajamani .. Petitioner in W.P.No.6361/2017

Vs.

1.The District Collector,
Villupuram District,
Villupuram.

2.The Block Development Officer,
(Village Panchayat)
Thiyagadurgam.

3.The Revenue Tahsildar,
Sankarapuram Taluk,
Villupuram District.

4.M.Prakash .. Respondents in all WPs both

PRAYER: W.P.No.6360 of 2017 filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus forbearing the respondents 1 to 3, their men, agents, servants, subordinates or any other officer or officers authorised by them from in any manner, interfering with the petitioner's peaceful possession and enjoyment of the property or demolishing the house of the petitioner put up in the land measuring an extent of 0.0008 in Survey No.321/37, Pallagachery village, Sankarapuram Taluk, Villupuram District, without passing any orders under Section 6 of the Land Encroachment Act, 1905.

PRAYER: W.P.No.6361 of 2017 filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus

forbearing the respondents 1 to 3, their men, agents, servants, subordinates or any other officer or officers authorised by them from in any manner, interfering with the petitioner's peaceful possession and enjoyment of the property or demolishing the house of the petitioner put up in the land measuring an extent of 0.0017 sq. meters in Survey No.321/37, Pallagachery village, Sankarapuram Taluk, Villupuram District, without passing any orders under Section 6 of the Land Encroachment Act, 1905.

For Petitioners : Mr.AL.Gandhimathi

For Respondents : Mr.M.K.Subramanian
Government Pleader
for respondents 1 to 3

COMMON ORDER

(Order of the Court was made by the Acting Chief Justice)

Mr.M.K.Subramanian, learned Government Pleader takes notice for respondents 1 to 3.

2. Heard the learned counsel for the parties.

3. The petitioners have filed this writ petition seeking issuance of a writ of mandamus forbearing the respondents 1 to 3, their men, agents, servants, subordinates or any other officer or officers authorised by them from in any manner, interfering with the petitioners peaceful possession and enjoyment of the property or demolishing the house of the petitioners put up in the land measuring an extent of 0.0008 and 0.0017 sq. meters respectively in Survey No.321/37, Pallagachery village, Sankarapuram Taluk, Villupuram District, without passing any orders under Section 6 of the Land Encroachment Act, 1905.

4. The petitioners are residing in S.No.321/37, Pallagachery village, Sankarapuram Taluk and they are owners of the land measuring an extent of 0.0008 and 0.0017 square meters respectively. Considering the possession of the petitioners and their ancestors, pattas have also been granted in favour of the petitioners and three of their family members. While things stood thus, it is alleged that pursuant to the orders passed by this Court in W.P.No.28021 of 2014 filed by the fourth respondent, the second respondent issued notice dated 02.01.2017 under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 calling upon the petitioners to show cause as to why they should not be evicted. The petitioners have also submitted their

objections to the same. It is alleged that the respondent authorities without following the procedure contemplated under the said Act are threatening to evict the petitioners from the said lands and in such circumstances, they have filed these writ petitions for the relief stated supra.

5. The proceedings under challenge in these writ petitions are show cause notices issued under Section 7 of the said Act. Admittedly, in response to the said notices, the petitioners have submitted their objections and the same is pending consideration. The anxiety expressed by the petitioners is that without proper recourse to the procedure contemplated under the said Act the authorities are likely to evict the petitioners.

6. As per the provisions of the said Act, the respondent authorities, after consideration of the objections submitted by the petitioners, have to pass an order under Section 6 of the said Act. Even against the said order, the petitioners have a right to appeal under Section 10 of the said Act before the District Collector. The petitioners are, therefore, entitled to get the procedural safeguards contemplated under the said Act. That being the legal position, the respondent authorities are not supposed to take any coercive action against the petitioners without following the due process of law.

7. In such circumstances, we direct the respondent authorities to strictly adhere to the procedure contemplated under law and till the conclusion of the proceedings, no coercive action shall be taken against the petitioners.

8. The writ petitions are disposed of accordingly. No costs. Consequently, W.M.P.Nos.6858 & 6859 of 2017 are closed.

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

To:

1.The District Collector,
Villupuram District,
Villupuram.

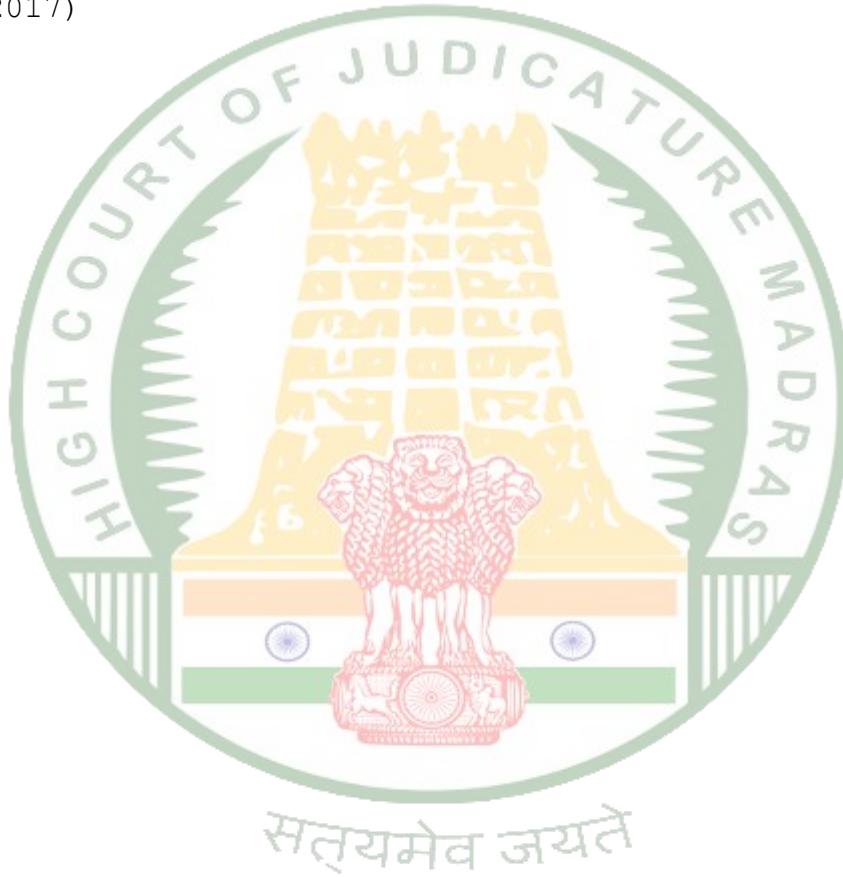
2.The Block Development Officer,
Village Panchayat)
Thiyagadurgam.

3.The Revenue Tahsildar,
Sankarapuram Taluk,
Villupuram District.

+2ccs to M/S. AL. Ganthimathi, Advocate Sr. 16346,16347

W.P.Nos.6360 & 6361 of 2017

NM(CO)
VR(21/03/2017)



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