

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.04.2017

CORAM

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

THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

W.P.Nos.4399 & 4400 of 2017

and

W.M.P.Nos.4586 to 4588 of 2017

A.Chinna Ponnu ... Petitioner in
W.P.4399/2017

A.Parasuraman ... Petitioner in
W.P.4400/2017

Vs.

1 District Collector
Villupuram
Villupuram District

2 The Superintendent of Police
Villupuram
Villupuram District

3 Tahsildar
Dindivanam Taluk
Villupuram District

4 The BDO
Olakkur Ooratchi Onriyam
Dindivanam Taluk
Villupuram District

5 Inspector of Police
Olakkur Police Station
Dindivanam Taluk
Villupuram District

6 The Village Administrative
Officer Olakkur Village
Dindivanam Taluk
Villupuram District

PRAYER: Petitions under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus to call for the entire records, impugned order passed by the fourth respondent in Na.Ka.Aa2/152/2017, dated 17.02.2017, quash the same and direct the respondent to conduct the proper enquiry.

For Petitioners : Mr.Silambanan
Senior Counsel
for M/s.M.Senthamizh Selvan

For Respondents : Mr.M.K.Subramanian
Government Pleader
for respondents 1 to 6

COMMON ORDER

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

The petitioners have filed the writ petitions seeking to quash the communication of the fourth respondent dated 17.2.2017.

2. It is the case of the petitioners that they are coolie workers and are residing in the property by putting up brick house and thatched house respectively. The petitioners have also issued with Voter Identity Cards, Aadhaar Cards, Ration Cards. They also got electricity service connections. The seventh respondent is the owner of the adjacent land of the petitioners and he had earlier filed W.P.No.40948 of 2016 seeking removal of encroachment. The said writ petition was disposed of by this Court vide order dated 22.11.2016, where no notice was issued with the petitioners. In the impugned communication, the fourth respondent sought police protection to remove the petitioners. The total poramboke land is 30 cents and the petitioners have constructed their houses only in 436 and 190 square feet respectively. The intention of the seventh respondent is to encroach the entire poramboke land including the land in occupation of the petitioners. The seventh respondent has also filed a civil suit in O.S.No.20 of 2017 on the file of the Additional District Munsif Court, Villupuram and the same is pending. Hence, the petitioners have filed the writ petitions seeking the relief stated supra.

3. The fourth respondent has filed the counter-affidavit stating that pursuant to the order passed in W.P.No.40948 of 2016, an inspection was conducted and the land encroached upon by the petitioners belong to the Rural Development Department which is classified as "road". On 08.2.2017, notices under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 were issued to the petitioners. Since no response was forthcoming, further proceedings were undertaken. Since the revenue department apprehending law and order problem, they sought police assistance for removal of encroachment scheduled on 20.2.2017 and the same was also communicated to the petitioners. After issuance of the communication dated 17.2.2017, the petitioners gave letter requesting one month time since there is a bereavement in the family. In their request, the petitioner have also stated that they do not have any other alternate place to set up their homes. The removal of encroachment was kept in abeyance on account of a bereavement and upon their written request. The suit filed by the seventh respondent for removal of the obstruction is pending. Notices under Section 6 of the Act were also served on the petitioners on 08.2.2017. Hence, prays for dismissal of the writ petitions.

4. The learned Senior Counsel for the petitioners submits that the petitioners are coolies and are landless poor and are in occupation of the land for many years and if the petitioners were removed from the present place, they may be allotted an alternate site in lieu of the site occupied by them.

5. If the petitioners have any grievance, it is for them to approach the District Collector, Villupuram in this regard within ten days from today and submit a representation and the District Collector, Villupuram on receipt of such representation to look into the matter and take a decision in accordance with law after affording an opportunity of hearing to the petitioners within a period of one month thereafter. Till then, no coercive steps shall be taken by the respondent authorities.

6. The writ petitions, accordingly, stand disposed of. No costs. Consequently, W.M.P.Nos.4586 to 4588 of 2017 are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To:

- 1 The District Collector,
Villupuram,
Villupuram District.
- 2 The Superintendent of Police,
Villupuram,
Villupuram District.
- 3 The Tahsildar,
Dindivanam Taluk,
Villupuram District.
- 4 The Block Development Officer,
Olakkur Ooratchi Onriyam,
Dindivanam Taluk,
Villupuram District.
- 5 The Inspector of Police,
Olakkur Police Station,
Dindivanam Taluk,
Villupuram District.
- 6 The Village Administrative,
Officer Olakkur Village,
Dindivanam Taluk,
Villupuram District.

+1cc to the Government Pleader Sr.19809
+2cc to M/s.M.Senthamizh Selvan, Advocate Sr.20439, 20440
[10/04/2017]

सत्यमेव जयते

W.P.Nos.4399 & 4400 of 2017

vsn[co]
srg 4/4/2017

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