

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.08.2017

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

WP.Nos.10580,10581 and 10582 of 2017 and
W.M.P.Nos. 11522, 11523 and 11524 of 2017

Palaniammal .. Petitioner in W.P.No.10580 of 2017
Sivanandam .. Petitioner in W.P.No.10581 of 2017
Karupathhal .. Petitioner in W.P.No.10582 of 2017

Versus

1. Assistant Divisional Engineer,
Highways, Construction and Maintenance,
Palladam.

2. Assistant Engineer,
Highways, Construction and Maintenance,
Palladam.

3. Thasildar,
Palladam Taluk,
Tiruppur District.

4. Samalapuram Town Panchayat,
Represented by its Executive Officer,
Pallapalayam Post, Manglam Via.,
Tiruppur District.

5. S.Saravanan,
Secretary,
People Social Welfare Association,
39/B Pallapallayam, Somanur,
Palladam Taluk. ..

Respondents in all WPs

COMMON PRAYER:- Writ petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records relating to the order of the 2nd respondent dated 02.11.2016 in his proceeding Ku.No.25/2016/Case/Vu.Po (Prayer in all WPs).

For Petitioners in
all WPs :Mr.S.Vadivel Murugan
For RR 1 to 4 in
all WPs :Mr.P.Sanjay Gandhi, RR 1 to 4
For R5 in all WPs :Mr.V.P.Sengottuvel

COMMON ORDER

[Order of the Court was made by M.SATHYANARAYANAN.,J]

By consent, these writ petitions are taken up for final disposal.

2 The Petitioner in W.P.No.10580 of 2017 has stated that her husband was running a small petty shop on the rear side and the family was also residing in the said premises from the year 1970 and the property is also subjected to statutory levies. After the demise of her husband on 21.02.2007, she continues to reside on a small area of 700 Sq.ft.

3. The grievance expressed by the petitioner is that at the instance of the 5th respondent, the 2nd respondent has issued impugned notice dated 02.11.2016 alleging that the petitioner and 58 others had encroached upon the road margin by constructing superstructures and that they are liable to be evicted and called upon the petitioner to vacate and deliver the possession within 15 days from the date of receipt of copy of the notice and challenging the legality of the same, the petitioner came forward to file this writ petition.

4. The petitioner in WP No.10581 of 2017 stated that he is practicing Siddha Ayurveda medicine and is in occupation of small area of 900 Sq.ft and the family was residing over 40 years and challenging the same kind of notice, the petitioner came forward to file this writ petition.

5. The petitioner in WP No.10582 of 2017 stated that her husband was running a small shop and after his demise on 09.05.1997, she continues to be residing on the small area of 700 Sq.ft and the said property is also subjected to statutory levies for over the 35 years.

6. The learned counsel appearing for the petitioners would submit that though the petitioners and others are categorized as encroachers, the fact remains that their encroachment is an unobjectionable one and taking into consideration of the fact that their predecessors and the petitioners as successors are in the possession and enjoyment of the landed property for over 40 years, their possession is to be regularized in the form of issuance of patta and would further state that since the said properties are subject to statutory levies by the local body, the local body cannot alone take action for removal of encroachment and prays for interference.

7. Mr.V.P.Sengottuvel, the learned counsel appearing for 5th respondent would submit that only at the instance of the 5th respondent, action is taken in compliance of the order dated 15.09.2016 in WP.No.32166 of 2016. Admittedly, the petitioners are rank encroachers on the road and the said place is needed for road expansion and as such, the petitioners are liable to be evicted in accordance with law.

8. This Court has considered the rival submissions and also perused the materials placed before it.

9. 36 similar encroachers like that of the petitioners herein, had filed WP.43762 of 2016, making a challenge to the similar kind of impugned notice issued by the 2nd respondent herein and the said writ petition was disposed on 20.12.2016, wherein it has been stated that the documents filed by them suggested continuous occupation of the petitioners therein and taking into consideration of the facts and circumstances, this Court directed the authorities concerned to look into the issue as to whether the petitioners are entitled for patta or they can be rehabilitated in some other place and granted time of two months to complete the said exercise.

10. In the light of the above facts and circumstances, the petitioners are at liberty to submit their response in the form of representation to the impugned notice issued by the 2nd respondent as well as to the 3rd respondent within a period of two weeks from the date of receipt of a copy of this order and by enclosing all necessary documents and upon receipt of the same, the respondents 2 and 3 are directed to consider the representation on merits and in accordance with law and pass orders within a further period of eight weeks thereafter and till such time the respondents 2 and 3 shall defer further decision in terms of the

impugned notice dated 02.11.2016.

11. In the result, these Writ Petitions are disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

[M.S.N.,J] [N.S.S., J]
11.08.2017

Index : No
Internet : Yes

rka/dh

Note : Issue order copy 18.08.2017.

To

1. Assistant Divisional Engineer,
Highways, Construction and Maintenance,
Palladam.

2. Assistant Engineer,
Highways, Construction and Maintenance,
Palladam.

3. Thasildar,
Palladam Taluk,
Tiruppur District.

4. Samalapuram Town Panchayat,
Represented by its Executive Officer,
Pallapalayam Post, Manglam Via.,
Tiruppur District.

M.SATHYANARAYANAN.,J,
and
N.SESHASAYEE.,J,

rka/dh



WP.Nos.10580 to 10582 of 2017

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