

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:04.07.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE P.D.AUDIKESSAVU

W.P.Nos.11190 & 11191/2017 & WMP.Nos.12024, 12135 to 12139/2017

- 1.Gunasekaran
- 2.Mathiazhagan
- 3.Kullu
- 4.Chinna Alamelu
- 5.Ponniyammal
- 6.Maniammal
- 7.Periya Alamelu
- 8.Ayyammal
- 9.Selvi
- 10.Chandran

.. Petitioner
in WP.No.11190/2017

- 1.Karupannan
- 2.Indirani
- 3.Murugesan
- 4.Selvam

.. Petitioner in
WP.No.11191/2017

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Vs

1.The District Collector
Salem, Salem District.

2.The Revenue Divisional Officer
Mettur, Mettur Taluk, Salem District.

3.The Tahsildar
Taluk Office, Omalur Taluk,
Salem District.

4.The Revenue Inspector
Omalur, Omalur Taluk
Salem District.

5.The Village Administrative Officer
Omalur Village, Omalur Taluk
Salem District.

6.The Commissioner HR&CE
Nungambakkam, Chennai.

7.The Joint Commissioner HR&CE
Kottai Mariamman Koil Campus
Salem, Salem District.

8.The Assistant Commissioner HR&CE
Salem, Salem District.

9.The Administrative Officer cum
Executive Officer, A/M Kottai Mariamman
Koil, Omalur, Omalur Taluk
Salem District.

10.The Executive Officer
Omalur Selection Grade Town Panchayat
Omalur Taluk, Salem District.

.. Respondents in
WP.No.11190/2017

1.The District Collector
Salem, Salem District.

2.The Tahsildar
Omalur Taluk, Salem District.

3.The Village Administrative Officer
Omalur Village, Omalur Taluk
Salem District.

4.The Assistant Engineer
[Highways], Construction & Maintenance
Omalur, Salem District.

5.The Assistant Zonal Engineer
[Highways], Construction & Maintenance
Omalur, Salem District.

6.The Commissioner HR&CE
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Koil, Omalur, Omalur Taluk
Salem District.

10.The Executive Officer
Omalur Selection Grade Town Panchayat
Omalur Taluk, Salem District.

.. Respondents in
WP.No.11191/2017

Prayer in WP.No.11190/2017:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorari calling for the records in pursuant to the notice dated 19.07.2016 under section 7 of the Act passed by the 4th respondent and Notice dated 13.04.2017 under section 6 of the Act passed by the 3rd respondent and quash the same.

Prayer in WP.No.11191/2017:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorari calling for the records in pursuant to the notice dated 05.08.2016 under section 7 of the Act passed by the 5th respondent and quash the same.

For Petitioners in both
Writ Petitions : Mr.M.Elango

For RR 1 to 5 & 10 in
both Writ petitions : Mr.M.Elumalai, GA

For RR6 to 8 in
both Writ petitions : Mr.M.Maharaja, Spl.GP [HR&CE]

For R9 in
both Writ petitions : Mr.G.Surya Narayanan

COMMON ORDER

सत्यमेव जयते

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

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After some arguments, the learned counsel appearing for the petitioners, on instructions, seeks permission of this Court to withdraw the writ petitions with liberty to pursue the appeal remedy under section 10 of the Tamil Nadu Land Encroachment Act, 1905 [Tamil Nadu Act 3 of 1905]. Learned counsel for the petitioners also undertakes to

withdraw the suits filed, restraining the respondents from evicting them except under due process of law before filing the Appeal.

2 *Per contra*, Mr.G.Surya Narayanan, learned counsel appearing for the 9th respondent would submit that in pursuant to the order dated 03.01.2017 made in WP.No.7/2017 **[Arulmighu Kottaimariyamman Thirukoil rep.by its Hereditary Trustee R.Ramakrishnan Vs. The Commissioner, Hindu Religious and Charitable Endowment, No.119, Nungambakkam High Road, Chennai-34 and others]**, the respondents had woken up from a deep slumber and started taking action and therefore, the petitioners are not entitled to any protection.

3 In the light of the endorsement made, the writ petitions are dismissed as withdrawn and the petitioners are at liberty to file appeals under section 10 of the Tamil Nadu Land Encroachment Act, 1905, before the Appellate Authority within a period of two weeks from the date of receipt of a copy of this order and till such time, the official respondents, shall defer further decision in pursuant to the impugned notices. The Appellate Authority, shall entertain the appeals, if the papers are otherwise in order and after putting the concerned parties

on notice, shall accord priority and dispose of the appeals in accordance with law as expeditiously as possible and not later than further period of eight weeks thereafter and communicate the decision taken, to the petitioners as well as to the person/s concerned. No costs. Consequently, the connected miscellaneous petitions are also dismissed.

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

[P.D.A., J]

04.07.2017

Index : No
Internet : Yes

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and
P.D.AUDIKESAVALU, J.,

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