

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2017

CORAM:

THE HON'BLE MR. JUSTICE M.SATHYANARAYANAN
And
THE HON'BLE MR.JUSTICE SATRUGHANA PUJAHARI

W.P.Nos.31926 and 31928 of 2017
and WMP.Nos.35075 and 35077 of 2017

J.Punithavel .. Petitioner in W.P.No.31926 of 2017
K.Malar .. Petitioner in W.P.No.31928 of 2017
vs.

1.The District Collector,
Kanchipuram District.
2.The Tahsildar,
Pallavaram Taluk Office,
Kanchipuram District. ... Respondents in both W.Ps.

Prayer : Writ Petitions filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents to conduct an enquiry as per the directions of this Court in W.P.Nos.44515 and 44517 of 2016 respectively by order dated 02.01.2017 by giving opportunity to the petitioner.

For Petitioner : M/s.V.T.Balaji
in all W.Ps.

For Respondents : Mrs.M.E.Rani Selvam,
in all W.Ps. Additional Government Pleader

O R D E R

(Order of the Court was made by M.SATHYANARAYANAN, J.)

By consent, all these writ petitions are taken up for final disposal and are disposed of by this common order as the issue to be adjudicated is one and the same. Mrs.M.E.Rani Selvam, Additional Government Pleader accepts notice on behalf of the respondents.

2. The petitioners, in the affidavit filed in support of these writ petitions, would submit that they had put up superstructures in S.No.178, Anagaputhur Village, Pallavaram

Taluk, Kanchipuram District and they are in occupation of the same for quiet long and they have been issued with Aadhar Card, Voters Identity Card and their premises are also subjected to statutory levies and also provided with basic amenities. The petitioners, on an earlier occasion, made a challenge to the order of the second respondent dated 02.11.2016 by filing W.P.Nos.44515 and 44517 of 2016 with a further direction forbearing the respondents from interfering with the petitioners' peaceful possession and enjoyment of their properties situated at S.No.178, First Street, Moogambikai Nagar, Anagaputhur, Pallavaram Taluk, Kanchipuram District and this Court, vide common order dated 02.01.2017 has dispose of all the writ petitions and it is relevant to extract Para Nos.3 and 4 of the said common order:

"3. Thus, it is agreed that the notices impugned in the present writ petitions, which have been received by the individual petitioners, will be treated as a notice to show cause and they may file their reply within fifteen days with material to establish that the area in question is not a water body covered under the provisions of the said Act. An enquiry would be held and thereafter, appropriate orders passed by the competent authority within a maximum period of one month thereafter. Naturally, till the enquiry is not completed, no coercive process will be taken and in case the verdict is against the petitioners, for a period of two weeks after communication of the order to the petitioners.

4. These petitions stand disposed of accordingly. No costs. Consequently, W.M.P.Nos.38325 to 38338 of 2016 are closed."

3. The learned counsel appearing for the petitioners would submit that despite a positive direction issued by this Court directing the second respondent to held enquiry and conclude the same within a stipulated time, it is yet to be held and in the interregnum, repeated attempts are being made to dispossess the petitioners from the land and superstructures in question and left with no other option, the petitioners are constrained to approach this Court with these writ petitions.

4. Per contra, Mrs.M.E.Rani Selvam, learned Additional Government Pleader appearing for the respondents would submit that since some records and documents are to be collected, enquiry could not be held, as directed by this Court in the above cited common order and prays for minimum ten weeks time to complete the enquiry and communicate the result of the same to the petitioners.

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

6. Though the petitioners pray for larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioners in these writ petitions, directs the second respondent to comply with the order dated 02.01.2017 passed in W.P.Nos.44515 and 44517 of 2016 and pass final orders in accordance with law as expeditiously as possible and not later than ten weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioners and till such time, shall defer further decision to evict/dispossess the petitioners from their land/superstructures in question. It is made clear that till the conclusion of enquiry and passing final orders by the second respondent, the petitioners shall not create any third party rights in respect of the land/superstructures in question and shall not alter its' physical features also. It is also open to the jurisdictional Local Body to cause inspection as to whether the superstructures put up by the petitioners are authorized/unauthorized/deviated from the sanction plan and depending upon the result of the same, shall initiate appropriate action in accordance with law for demolition of the same.

7. These Writ Petitions are disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

jvm

To

1.The District Collector,
Kanchipuram District.

2.The Tahsildar,
Pallavaram Taluk Office,
Kanchipuram District.

+ 2 cc to M/s.V.T.Balaji Advocate,SR.88956

+ 1 cc to The Govt.Pleader, SR.89696

W.P.Nos.31926 and 31928 of 2017

GMR (CO)
NR 03/01/2018