

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.32193 to 32197 of 2017
and WMP.Nos.35379 to 35383 of 2017

Kamatchi ... Petitioner in W.P.No.32193/2017
Rasalingam ... Petitioner in W.P.No.32194/2017
Rani ... Petitioner in W.P.No.32195/2017
Kanniga ... Petitioner in W.P.No.32196/2017
Ganesan ... Petitioner in W.P.No.32197/2017

vs.

The Assistant Engineer,
Public Works Department
(Water Resource Organization),
Adayar Irrigation Division,
St.Thomas Mount, Chennai-16. ... Respondent in all W.Ps.

Prayer : Writ Petitions filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus for hearing the respondent and their men from evicting the petitioner from the house at Door Nos.11-1, 24, 40, 47, 36 respectively in Stalin Nagar, Anankaputhur, Chennai-70, existing in SF.No.235 of Anankaputhur Village, Pallavaram Taluk, Kancheepuram District.

For Petitioner : M/s.R.Nalliyappan
in all W.Ps.

For Respondent : Mr.A.N.Thambidurai,
in all W.Ps. Special Government Pleader

C O M M O N 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.

W.P.No.32193 of 2017

2. The petitioner, who is admittedly an encroacher, would submit that she had put up superstructure in the land comprised in S.No.235, Anakaputhur Village, which is located 300 meters away from Adayar River and in the revenue records, it is shown as "Stony Ground" and the petitioner claims to be in possession of the land in question for more than 50 years and she has also been issued with Aadhar Card bearing No.8305 8786 1728. Grievance expressed by the petitioner is that all of a sudden, officials attached to the office of the respondent came and marked certain portion of lands in S.No.235 and called upon the petitioner to vacate from the land and superstructure in her occupation on the ground that she has encroached upon water body. The petitioner, in this regard, has submitted a representation dated 09.01.2017 to the respondent giving out the details as to her right, title and possession and despite receipt and acknowledgment, no order has been passed and apprehending imminent dispossession by taking advantage of weekend holidays, the petitioner came forward with this writ petition.

W.P.No.32194 of 2017

3. The petitioner, who is admittedly an encroacher, would submit that he had put up superstructure in the land comprised in S.No.235, Anakaputhur Village, which is located 300 meters away from Adayar River and in the revenue records, it is shown as "Stony Ground" and the petitioner claims to be in possession of the land in question for more than 50 years and he has also been issued with Aadhar Card bearing No.8991 1642 5276. Grievance expressed by the petitioner is that all of a sudden, officials attached to the office of the respondent came and marked certain portion of lands in S.No.235 and called upon the petitioner to vacate from the land and superstructure in his occupation on the ground that he has encroached upon water body. The petitioner, in this regard, has submitted a representation dated 09.01.2017 to the respondent giving out the details as to his right, title and possession and despite receipt and acknowledgment, no order has been passed and apprehending imminent dispossession by taking advantage of weekend holidays, the petitioner came forward with this writ petition.

W.P.No.32195 of 2017

4. The petitioner, who is admittedly an encroacher, would submit that she had put up superstructure in the land comprised in S.No.235, Anakaputhur Village, which is located 300 meters away from Adayar River and in the revenue records, it is shown as "Stony Ground" and the petitioner claims to be in possession of the land in question for more than 50 years and

she has also been issued with Aadhar Card bearing No.3650 3792 4807. Grievance expressed by the petitioner is that all of a sudden, officials attached to the office of the respondent came and marked certain portion of lands in S.No.235 and called upon the petitioner to vacate from the land and superstructure in his occupation on the ground that she has encroached upon water body. The petitioner, in this regard, has submitted a representation dated 09.01.2017 to the respondent giving out the details as to her right, title and possession and despite receipt and acknowledgment, no order has been passed and apprehending imminent dispossession by taking advantage of weekend holidays, the petitioner came forward with this writ petition.

W.P.No.32196 of 2017

5. The petitioner, who is admittedly an encroacher, would submit that she had put up superstructure in the land comprised in S.No.235, Anakaputhur Village, which is located 300 meters away from Adayar River and in the revenue records, it is shown as "Stony Ground" and the petitioner claims to be in possession of the land in question for more than 50 years and her husband has also been issued with Vote Identity Card bearing No.RT09758383. Grievance expressed by the petitioner is that all of a sudden, officials attached to the office of the respondent came and marked certain portion of lands in S.No.235 and called upon the petitioner to vacate from the land and superstructure in his occupation on the ground that she has encroached upon water body. The petitioner, in this regard, has submitted a representation dated 09.01.2017 to the respondent giving out the details as to her right, title and possession and despite receipt and acknowledgment, no order has been passed and apprehending imminent dispossession by taking advantage of weekend holidays, the petitioner came forward with this writ petition.

W.P.No.32197 of 2017

6. The petitioner, who is admittedly an encroacher, would submit that he had put up superstructure in the land comprised in S.No.235, Anakaputhur Village, which is located 300 meters away from Adayar River and in the revenue records, it is shown as "Stony Ground" and the petitioner claims to be in possession of the land in question for more than 50 years and he has also been issued with Aadhar Card bearing No.3014 1224 0480. Grievance expressed by the petitioner is that all of a sudden, officials attached to the office of the respondent came and marked certain portion of lands in S.No.235 and called upon the petitioner to vacate from the land and superstructure in his occupation on the ground that he has encroached upon water body. The petitioner, in this regard, has submitted a representation dated 09.01.2017 to the respondent giving out the details as to

his right, title and possession and despite receipt and acknowledgment, no order has been passed and apprehending imminent dispossession by taking advantage of weekend holidays, the petitioner came forward with this writ petition.

7. The learned counsel appearing for the petitioners would submit that since the portion of the lands in occupation of the petitioners is located on the water body/water catchment area, duty is cast upon the respondent to proceed under the provisions of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007 and rules framed thereunder and without issuing notice and eliciting response from the petitioners, straightaway action is taken to dispossess them and therefore, prays for appropriate orders.

8. Per contra, Mr.A.N.Thambidurai, learned Special Government Pleader appearing for the respondent, on instructions would submit that all the writ petitions were issued with notice dated 31.05.2017 and due process of law is strictly followed and the petitioners, who are encroachers, cannot claim any right that they shall remain in possession of the land/superstructures in question and would further add that the superstructures put up by the petitioners are unauthorized.

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

10. 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, directs the respondent to consider the petitioners' representation dated 09.01.2017 as response to the notice issued by him to the petitioners and dispose of the same and pass orders on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioners and till such time, the respondent shall defer further decision to evict/dispossess the petitioners from their land/superstructures in question. It is also made clear that till the consideration and disposal of the petitioners' representation by the 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 results of the same, shall initiate appropriate action in accordance with law for demolition.

11. These Writ Petitions are disposed of accordingly.

No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

jvm

To

The Assistant Engineer,
Public Works Department (Water Resource Organization),
Adayar Irrigation Division,
St.Thomas Mount, Chennai-16.

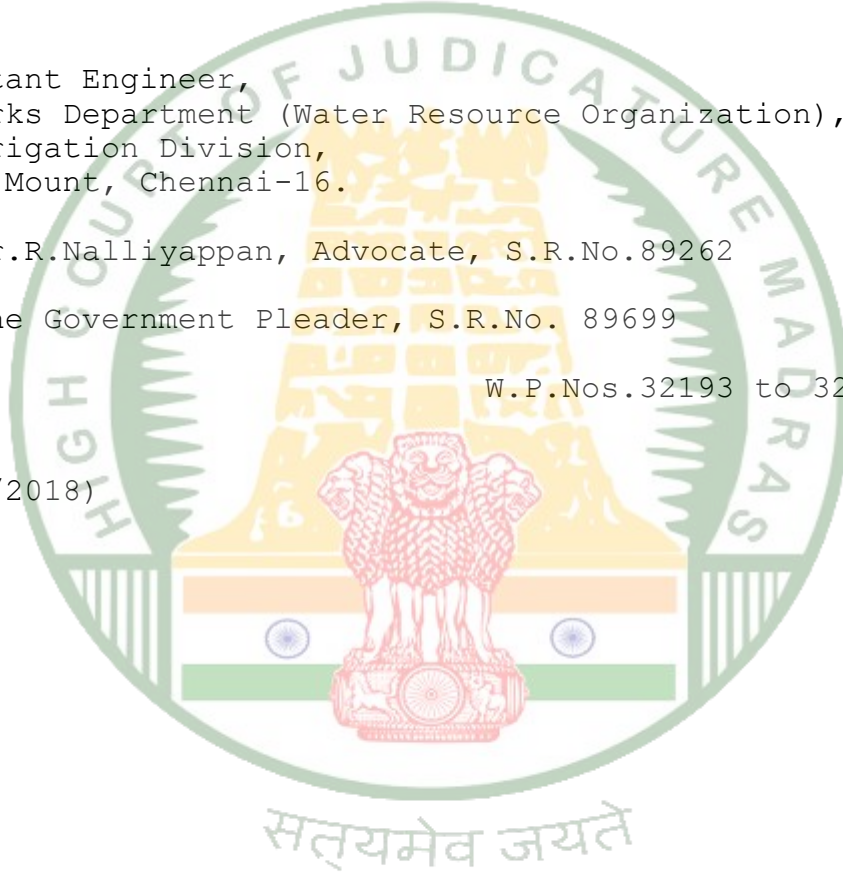
+1cc to Mr.R.Nalliyappan, Advocate, S.R.No.89262

+1cc to the Government Pleader, S.R.No. 89699

W.P.Nos.32193 to 32197 of 2017

GMR(CO)

RRK(09/01/2018)



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