

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:19.12.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE P.RAJAMANICKAM

W.P.Nos.32930 to 32934/2017 & WMP.Nos.36299 to 36303/2017

Sumitra	..	Petitioner in WP.No.32930/2017
Mohammed Iqbal	..	Petitioner in WP.No.32931/2017
Rahamath Nisha	..	Petitioner in WP.No.32932/2017
Mohammed Sarvar	..	Petitioner in WP.No.32933/2017
Natarajan	..	Petitioner in WP.No.32934/2017

Vs

The Assistant Divisional Engineer
Public Works Department, [Water
Resource Organization], Adayar
Irrigation Division, St.Thomas Mount
Chennai-16. ... Respondent in all WPs

Common Prayer:- Writ Petitions filed under Article 226 of the Constitution of India praying for issuance of a Writ of mandamus forbearing the respondent from evicting the petitioners from the respective houses at Door Nos.2 & 14, Stalin Nagar [WP.Nos.32930 & 32934/2017], Door Nos.11, 43, 41, Kayidhey Millath Nagar, [WP.Nos.32931 to 32933/2017], Anakaputhur, Chennai-70, existing in SF.No.235 of Annakaputhur Village, Pallavaram Taluk, Kancheepuram District.

For Petitioners in all
Writ Petitions : Mr.R.Nalliyappan
For Respondent in all
Writ Petitions : Mrs.M.E.Rani Selvam, AGP

COMMON ORDER

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

By consent, the writ petition are taken up for final disposal. Mrs.M.E.Rani Selvam, learned Additional Government Pleader accepts notice on behalf of the respondent in all the writ petitions.

2 Since the issue to be adjudicated in the above writ petitions is one and the same, all the writ petitions are taken up together for final hearing and are disposed of by the following common order.

WP.No.32930/2017:-

3 The petitioner in the additional affidavit dated 18.12.2017 filed in support of this writ petition would aver among other things that she is the resident of Door No.21, Stalin Nagar, Anakaputhur, Kancheepuram District and her father and others had occupied the site in SF.No.235 of Anakaputhur Village which is classified as "Stony Ground" as per the revenue records and also put up a superstructure and living along with the family for more than 50 years and subsequently, the father of the petitioner had orally settled the said property in favour of the petitioner and the petitioner is residing along with her family for the past 15 years. The grievance expressed by the petitioner is that she became aware of the fact that in respect of the adjacent residents, notices under Form III under the provisions of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007, were issued and apprehending that she may also be evicted / dispossessed from the site and superstructure in question without due recourse to law, she came forward to file the present writ petition, to forbear the respondent from dispossessing her.

WP.No.32931/2017:-

4 The petitioner in the additional affidavit dated 18.12.2017 filed in support of this writ petition would aver among other things that he is the resident of Door No.11, Kayidhey Millath Nagar, Anakaputhur, Kancheepuram District and his father and others had occupied the site in SF.No.235 of Anakaputhur Village which is classified as "Stony Ground" as per the revenue records and also put up a superstructure and living along with the family for more than 50 years and subsequently, the father of the petitioner had orally settled the said property in favour of the petitioner and the petitioner is residing along with his family for the past 30 years. The grievance expressed by the petitioner is that he became aware of the fact that in respect of the adjacent residents, notices under Form III under the provisions of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007, were issued and apprehending that he may also be evicted / dispossessed from the site and superstructure in question without due recourse to law, he came forward to file the present writ petition, to forbear the respondent from dispossessing him.

WP.No.32932/2017:-

5 The petitioner in the additional affidavit dated 18.12.2017 filed in support of this writ petition would aver among other things that she is the resident of Door No.43, Kayidhey Millath Nagar, Anakaputhur, Kancheepuram Village and her father and others had occupied the site in SF.No.235 of Anakaputhur Village which is classified as "Stony Ground" as per the revenue records and also put up a superstructure and living along with the family for more than 50 years and subsequently, the father of the petitioner had orally settled the said property in favour of the petitioner and the petitioner is residing along with her family for more than 25 years. The grievance expressed by the petitioner is that she became aware of the fact that in respect of the adjacent residents, notices under Form III under the provisions of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007, were issued and apprehending that she may also be evicted / dispossessed from the site and superstructure in question without due recourse to law, she came forward to file the present writ petition, to forbear the respondent from dispossessing her.

WP.No.32933/2017:-

6 The petitioner in the additional affidavit dated 18.12.2017 filed in support of this writ petition would aver among other things that he is the resident of Door No.41, Kayidhey Millath Nagar, Anakaputhur, Kancheepuram District and his father and others had occupied the site in SF.No.235 of Anakaputhur Village which is classified as "Stony Ground" as per the revenue records and also put up a superstructure and living along with the family for more than 50 years and subsequently, the father of the petitioner had orally settled the said property in favour of the petitioner and the petitioner is residing along with his family for the past 12 years. The grievance expressed by the petitioner is that he became aware of the fact that in respect of the adjacent residents, notices under Form III under the provisions of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007, were issued and apprehending that he may also be evicted / dispossessed from the site and superstructure in question without due recourse to law, he came forward to file the present writ petition, to forbear the respondent from dispossessing him.

WP.No.32934/2017:-

7 The petitioner in the additional affidavit dated 18.12.2017 filed in support of this writ petition would aver among other things that he is the resident of Door No.14, Stalin Nagar, Anakaputhur, Kancheepuram District and his father and

others had occupied the site in SF.No.235 of Anakaputhur Village which is classified as "Stony Ground" as per the revenue records and also put up a superstructure and living along with the family for more than 50 years and subsequently, the father of the petitioner had orally settled the said property in favour of the petitioner and the petitioner is residing along with his family for the past 25 years. The grievance expressed by the petitioner is that he became aware of the fact that in respect of the adjacent residents, notices under Form III under the provisions of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007, were issued and apprehending that he may also be evicted / dispossessed from the site and superstructure in question without due recourse to law, he came forward to file the present writ petition, to forbear the respondent from dispossessing him.

8 Mr.R.Nalliyappan, learned counsel for the petitioners would submit that the predecessors as well as the petitioners are in possession and enjoyment of the superstructures in the above said land for quite long time and they have been provided with civic amenities as well as the benefits by the Government of Tamil Nadu under various schemes and all of a sudden, without any notice, they sought to be dispossessed on the pretext that the land in SF.No.235, of Anakaputhur Village is classified as "water body" and in all fairness, the petitioners should have been issued with notices under the relevant provisions of law, so as to enable them to put forth their case and thereafter, action should have been taken in accordance with law and prays for appropriate orders.

9 Per contra, Mrs.M.E.Rani Selvam, learned Additional Government Pleader appearing for the respondent would submit that though the petitioners claim that they are in possession of the and superstructures in question for very many years, no documents whatsoever, have been filed by them in the typed set of documents to substantiate their claim and would further add that all the petitioners are rank encroachers on the water body and that apart, they had also put up superstructures without any planning permission and as such, it is not open to them to raise a plea that they are entitled to the protection of law and prays for dismissal of the writ petitions.

10 The Court has considered the rival submissions and also perused the materials placed before it.

11 A perusal of the affidavits and the additional affidavits filed in support of these writ petitions would clearly reveal that all the petitioners plead the very same facts and though they would claim that their predecessors and by way of succession, they continue to remain in possession of the

site and superstructures for very many years, no documents evidencing the same have been filed in the typed set of documents along with these writ petitions.

12 Be that as it may, 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, permits the petitioners to submit individual representations along with a copy of this common order and also enclosing the relevant and authenticated documents as to their claim that the land in question is "Stony Ground" and that they are in possession and enjoyment of the same for very many years within a period of four weeks from the date of receipt of a copy of this order and upon receipt of the same, the respondent is directed to consider the said representations on merits and in accordance with law and pass appropriate orders within a further period of six weeks thereafter and communicate the decision taken, to each of the petitioners and the respondent, till the disposal of the representations to be submitted by the petitioners, shall defer further decision with regard to the dispossession of the petitioners. It is also made clear that till the disposal of the representations by the respondent, the petitioners shall not create any third party rights in respect of the site and superstructures in question and shall also not alter the physical features of the same.

13 The writ petitions stand disposed of with the above direction. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

AP

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.90563

+1cc to the Government Pleader, S.R.No.91448

WP.Nos.32930 to 32934/2017

BR(CO)

CS/23/01/18