

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2017

CORAM :

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
AND

The Hon'ble MR.JUSTICE M.SUNDAR

W.P.Nos.6255 to 6259 of 2012
and

M.P.Nos.1 to 1 of 2012

Pushpalingam Petitioner in WP.6255 of 2012
S.Jayakumar Petitioner in WP.6256 of 2012
Philip Christina Petitioner in WP.6257 of 2012
Roobi Stella Petitioner in WP.6258 of 2012
S.Ravi Petitioner in WP.6259 of 2012

-Vs-

1. The District Collector,
Chennai District,
Singaravelar Maaligai,
Rajaji Salai, Chennai 600 001.
2. The Tahsildar,
Mambalam-Guindy Taluk,
Chennai 600 078. Respondents in all WPs.

Petitions filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus to call for the records pertaining to the 2nd respondent notice vide Proceedings No.A2/28013/2011 dated 26.2.2012 and to quash the same and consequently forbear the respondents from interfering with petitioners' possession of land in S.No.53 (WP.6255/12), S.No.24 (WP.6256/12), S.No.61 (WP.6257/12 & 6258/12), and S.No.53 (WP.6259/12) classified as Grama Natham.

For Petitioners in : Mr.Sirajudeen, Senior Counsel
all the Petitions for Mr.M.Velmurugan

For Respondents in : Mr.T.N.Rajagopalan
all the Petitions Special Government Pleader

O R D E R

(Order of the Court was made by The Hon'ble Chief Justice)

The case of the petitioners is that since there is an admission on part of the respondents that the land is Grama Natham, the provisions of the Land Encroachment Act, 2005, would not be applicable in view of various judicial pronouncements commencing from S.Rangaraja Iyengar vs. Achi Kannu Ammal, 1959 (2) MLJ 513. It is contended that the land being Grama Natham never vested with the Government or the Town Panchayat. However, the judicial pronouncement produced before us referred to the fact that patta has been issued in respect of private party.

2. On our query raised, it is conceded that no documents have been placed before us in respect of issuance of pattas and even otherwise, the entitlement of the petitioners to the land would not be in question. Learned Senior Counsel for the petitioners, however, submits that as the petitioners are in long occupation of the Grama Natham, the only remedy with the respondents is to acquire the land under the Land Acquisition Act, 1894. It is an accepted position that against the impugned order passed under Section 6 of the Land Encroachment Act, an appeal would be maintainable. The appellate authority would, then, look into the aforesaid issues to determine as to whether the provisions of the said Act would apply in the facts of the case or not.

3. We, thus, relegate the petitioners to the remedy of appeal, with the appeal being required to be filed within fifteen (15) days from today and an endeavour would be made to conclude the proceedings in appeal within a maximum period of three (3) months from the date of receipt of the order.

4. In view of the fact that interim protection has been available to the petitioners during the pendency of the petitions, the same would enure for the benefit of the petitioners till the disposal of the appeal.

Writ petitions, accordingly, stand disposed of. No costs. Consequently, connected miscellaneous petitions stand closed.

Sd/-
Assistant Registrar (CS IV)

//True Copy//

Sub Assistant Registrar

sra

To

1. The District Collector,
Chennai District,
Singaravelar Maaligai,
Rajaji Salai, Chennai 600 001.
2. The Tahsildar,
Mambalam-Guindy Taluk,
Chennai 600 078.

+1cc to Mr.M.Velmurugan, Advocate, S.R.No.2364

+1cc to the Government Pleader, S.R.No.2093

+4cc's to Mr.M.Velmurugan, Advocate,
S.R.Nos.2360 to 2363(27.01.2017)

W.P.Nos.6255 to 6259 of 2012

PA (CO)
CA(24/01/2017)



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