

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

and

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.P.Nos.25794 to 25796 of 2017

and

W.M.P.Nos.27218 to 27220 of 2017

Kuttiyappan .. Petitioner in W.P.No.25794 of 2017

R.Sellayal .. Petitioner in W.P.No.25795 of 2017

K.Gurusamy Gounder .. Petitioner in W.P.No.25796 of 2017

Vs.

1. The District Revenue Officer, Erode District, Erode.

2. The Estate Officer/Assistant Executive Engineer,
PWD/WRD, Canal Sub-Division,
Gobichettipalayam, Erode District.

3. The Tahsildar,
Gobichettipalayam Taluk,
Gobichettipalayam, Erode District.

.. Respondents in all the Writ Petitions

Writ Petitions filed under Article 226 of the Constitution of India, praying for issuance of Writs of Mandamus to forbear the respondents from demolishing the petitioners' house buildings situated in S.Nos.15/1, 15/2 and 15/3, Kurumandur Village, Gobichettipalayam Taluk, Erode District.

For Petitioners : Mr.C.Prakasam

For Respondents : Mr.P.Sanjay Gandhil, Addl.G.P.

ORDER

(The Order of the Court was made by S.Vaidyanathan,J)

The grandfather of the petitioner in W.P.No.25794 of 2017, the petitioner's father-in-law in W.P.No.25795 of 2017 and the petitioner's father in W.P.No.25796 of 2017 owned patta lands situated in S.Nos.15/1 and 15/3 of Kurumandur Village,

Gobichettipalayam Taluk, Erode District and were cultivating the agricultural crops in the lands. According to them, their grandfather/father-in-law/father respectively of the petitioners constructed houses in S.Nos.15/1 and 15/3 in the year 2002 with additional buildings adjoining the above said houses and after the demise of their grandfather (in W.P.No.25794 of 2017), father-in-law (in W.P.No.25795 of 2017) and father (in W.P.No.25796 of 2017), the members of the petitioners' family are residing in the respective houses. According to the petitioners, for more than 50 years, there are no canal across the said lands and one Ponkiyannan has made a false complaint before the respondents, based upon which, action had been initiated by the respondents. After due notice, the petitioners were asked to produce the documents. Admittedly, the petitioners have not produced any document in support of their claim, which has been reflected in the communication of the second respondent, dated 20.09.2017 addressed to the petitioners. The petitioners have also admitted that there was a canal and for the mistake committed by their grandfather/husband's father/father respectively, they should not be penalised and that the petitioners are willing to move from the canal, if alternative sites are offered to them. Admittedly, there was a canal and that due to non-availability of water flow in the canal, the petitioners have encroached the lands and the officials of the respondents have issued notices as early as on 26.11.2013 itself. The petitioners have also approached the Civil Court and filed suit, which was dismissed on 18.11.2015 in O.S.No.148 of 2014. Taking note of the fact that the petitioners are encroachers, their only grievance appears to be that though individual notices have been issued to the petitioners, there are about 20 houses in the area and the petitioners' contention that they may not be evicted, cannot be accepted. As the petitioners are admittedly encroachers, the respondents-authorities shall remove the encroachment in question forthwith, and if the petitioners do not vacate the places within one week from the date of receipt of a copy of this order, the respondents are directed to evict the petitioners. The respondents shall also issue notice to the other encroachers in the area and take appropriate action in accordance with law. If there is any complaint with regard to the encroachment in the area in question, the complainant(s) shall also be heard before eviction of the encroachers. The Writ Petitions are dismissed with these observations and direction. No costs. W.M.Ps. are closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

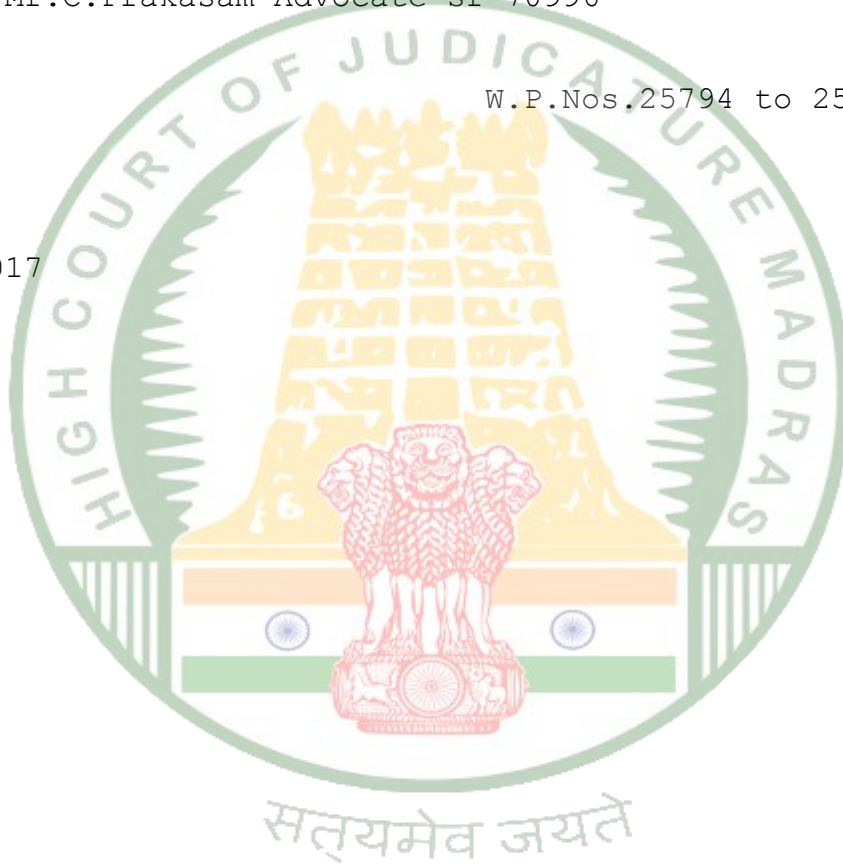
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+1 cc to the Govt Pleader sr 70885

+3 ccs to Mr.C.Prakasam Advocate sr 70996

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