

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2017

CORAM :

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

AND

The Hon'ble MR.JUSTICE M.SUNDAR

W.P. Nos.26234 and 26355 to 26359 of 2015

P.Narayanan	...	Petitioner in WP.26234/2015
M.Veerasingam	...	Petitioner in WP.26355/2015
C.Kumar	...	Petitioner in WP.26356/2015
K.Munuswamy	...	Petitioner in WP.26357/2015
J.Srinivasan	...	Petitioner in WP.26358/2015
S.Kasthuri	...	Petitioner in WP.26359/2015

-Vs-

1. The Government of Tamilnadu,
rep. by its Secretary,
Public Works Department,
Fort St. George, Chennai-9.
2. The Junior Engineer,
Public Works Department,
Water Resources Organisation,
Vandavasi 604 048.
3. Tahsildar,
Vandavasi Taluk,
Thiruvannamalai District.
4. The President,
Village Panchayat, Kizhkodungallur,
Vandavasi Taluk,
Thiruvannamalai District 604 403.
5. S.Viswanathan ... Respondents in all WPs

Petitions filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorari to call for the records of the 2nd respondent in respect of the impugned proceedings dated 23.7.2015 and consequential order of Eviction in Form III dated 1.8.2015 issued by the 2nd respondent under the Tamilnadu Protection of Tanks & Eviction of Encroachment Act 2007 (Act 8 of 2007) and quash the same and award costs.

For Petitioners : Mr.V.Prakash, Senior Counsel
for Mr.K.Sudalaikannu

For Respondents : Mr.T.N.Rajagopalan
Special Government Pleader
For RR 1 to 3
: Mr.R.Vijayakumar
Additional Government Pleader
For R-4
: Mr.P.Mani for R-5

COMMON ORDER

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

We had passed the following order in respect of the same land area IN S.No.271/1, Kizhkodungallur Village, Vandavasi Taluk, Thiruvannamalai District, on 23.01.2017 in W.P.No.37587 of 2015 and other connected petitions:-

"The prayer in this writ petition is for forbearing the respondents from evicting the petitioners from the occupation of S.No.271/1, Kizhkodungallur Village, Vandavasi Taluk, Thiruvannamalai District till the disposal of W.P.No.1294 of 2009.

2. It is suffice to say that admittedly the occupation of the petitioners is in respect of the classification of Periya Eri and thus, it is a water body. In view of the Full Bench judgment of this Court in T.K.Shanmugam v. The State of Tamil Nadu, 2015 WLR 1029, neither pattas can be issued, nor regularisation take place.

3. The authorities have already passed orders under the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007.

4. In view of the aforesaid, there is no merit in this petition.

5. We, however, make it clear that this will not preclude the authorities from rehabilitating the petitioners to some other place, if they so desire.

The writ petition is dismissed in terms aforesaid.
No costs."

2.Learned Senior Counsel for the petitioner, however, contends that one aspect in addition he seeks to urge is as set out in ground (ix) where he has alleged that there are identically situated persons/ constructions in the form of a temple which have not been served notice and apart from the same, the Government Hospitals, Government Girls High School and other local Government offices are located near the place where the petitioners had their houses.

3.Learned Special Government Pleader has obtained instructions and states that notices have been issued in respect of all of them and action in accordance with law will be taken.

4.The aforesaid statement is taken on record. In any case, there cannot be a quality in violation of law. We are, thus, of the view that these petitions also need to be dismissed in the same terms as in the connected matter, the order of which has been extracted above.

Writ petitions are dismissed in terms of the order passed in W.P.No. 37587 of 2015 dated 23.01.2017. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

sra

To

1. The Secretary to Govt. of Tamilnadu,
Public Works Department,
Fort St. George, Chennai-9.
2. The Junior Engineer,
Public Works Department,
Water Resources Organisation,
Vandavasi 604 048.
3. The Tahsildar,
Vandavasi Taluk,
Thiruvannamalai District.
4. The President,
Village Panchayat, Kizhkodungallur,
Vandavasi Taluk,
Thiruvannamalai District 604 403.

+1cc to Mr.K.Sudalaikannu, Advocate, S.R.No.8111
+1cc to Mr.P.Mani, Advocate, S.R.No.7789
+1cc to Mr.D.Suriya Narayanan, Advocate, S.R.No.7912
+1cc to the Government Pleader, S.R.No.7856

W.P.Nos.26234 and 26355
to 26359 of 2015

CA(CO)
CA(20/02/2017)