

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.3.2017

CORAM

THE HON'BLE MR.HULUVADI G.RAMESH, THE ACTING CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE R.MAHADEVAN

Writ Appeal Nos.2190 to 2196 of 2010

M/s. Senthil Electricals
rep. by its Partner M.S.Ramasamy
Door No.71, Main Road
Avinashi Town and Taluk
Tirupur District.

Appellant in
W.A.No.2190/10

P.Poovathal

Appellant in
W.A.No.2191/10

Saraswathi Ammal

Appellant in
W.A.No.2192/10

S.Ramasamy

Appellant in
W.A.No.2193/10

A.Suresh Kumar

Appellant in
W.A.No.2194/10

R.Gunasekaran

Appellant in
W.A.No.2195/10

R.Loganathan

Appellant in
W.A.No.2196/10

सत्यमेव जयते
Vs.

- 1.The District Collector
Tirupur District
Tirupur.
- 2.The Revenue Divisional Officer
Tirupur Division
Tirupur.
- 3.The Tahsildar
Avinashi Taluk
Avinashi
Tirupur District.

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4.National Highways Authority of India
Office of the Project Director and Manager
No.51/2 (Old No.28/1), 50 Feet Road
Krishnasamy Nagar
Ramanathapuram
Coimbatore 641 045.

Respondents in
.. all W.As.

Appeals under Clause 15 of the Letter Patent filed against the common order of the learned single Judge dated 26.8.2010 made in W.P.Nos.11848, 11847, 11852, 11849, 11775, 11851 and 11850 of 2010.

Wp. 11775 of 2010:- These Writ Petitions are filed under Article 226 of the constitution of India praying for issuance of a Writ of certiorarified Mandamus to Call for the records of the 2nd Respondent herein pertaining to the Notice issued to the Petitioner dated 20.05.2010 made in Na.ka.No. 2322/2010/A4 on the file of the 2nd Respondent herein and Quash the same and further direct the Respondent herein not to disturb the Petitioners peaceful possession and enjoyment of his properties at 3/50 and 3/51 Main Road Avinashi Town and Taluk Tirupur District which is situated in S.F.No.85/B2 of Avinashi Village and Taluk Tirupur except under due process of law.

Wp.No. 11847/2010:- Filed under Article 226 of the constitution of India praying for issuance of a Writ of Certiorarified Mandamus to Call for the records of the 2nd respondent herein pertaining to the notice dt.20.5.2010 made in Na.Ka.No.2322/2010/A4 and as well as the consequential notice dt.1.6.2010 issued to the petitioner by the 3rd respondent herein and quash the same and further direct the respondents herein not to interfere with the peaceful possession and enjoyment of the petitioner properties at Door No.15/54 & 15/55 Main road Avinashi Town and Taluk Tirupur District which is situated in S.F.No.85/B2 of Avinashi Village and Taluk Tirupur District except under due process of law.

WP.No. 11848/2010:- No. Filed under Article 226 of the constitution of India praying for issuance of a Writ of Certiorarified Mandamus to Call for the records of the 2nd respondent herein pertaining to the notice dt.20.5.2010 made in Na.Ka.No.2322/2010/A4 and as well as the consequential notice dt.1.6.2010 issued by the 3rd respondent herein and quash the same and further direct the respondents herein not to interfere with the peaceful possession and enjoyment of the petitioner properties at Door No. 15/55A 55B 55C & 15D (old door Nos. 3/55A 55B 55C & 15D) which is situated in S.F.No.85/B2 of Avinashi Village and Taluk Tirupur District except under due process of law.

WP. No. 11849/2010:- Filed under Article 226 of the constitution of India praying for issuance of a Writ of Certiorarified Mandamus to Call for the records of the 2nd respondent herein pertaining to the notice dt.20.5.2010 made in Na.Ka.No.2322/2010/A4 and as well as the consequential notice dt.1.6.2010 issued to the petitioner by the 3rd respondent herein and quash the same and further direct the respondents herein not to interfere with the peaceful possession and enjoyment of the petitioner properties at Door No.15/49 & 15/50 Main road Avinashi Town and Taluk which is situated in S.F.No.85/B2 of Avinashi Village and Taluk Tirupur District except under due process of law

WP.No. 11850/2010:- Filed under Article 226 of the constitution of India praying for issuance of a Writ of Certiorarified Mandamus to Call for the records of the 2nd Respondent herein pertaining to the Notice issued dated 20.05.2010 made in Na.Ka.No.2322/2010/A4 on the file of the 2nd Respondent herein and Quash the same and further direct the Respondents herein not to disturb the Petitioner peaceful possession and enjoyment of his properties at Door Nos. 6/61 6/61A 61B 61C & 61D (Old No.3/61) situated in S.F.No.85/B2 of Avinashi Village and Taluk Tirupur District except under due process of law

Wp.No. 11851/2010:- Filed under Article 226 of the constitution of India praying for issuance of a Writ of Certiorarified Mandamus to Call for the records of the 2nd Respondent herein pertaining to the Notice issued dated 20.05.2010 made in Na.Ka.No.2322/2010/A4 on the file of the 2nd Respondent herein and Quash the same and further direct the Respondents herein not to disturb the Petitioner peaceful possession and enjoyment of his properties at Door Nos. 6/61 6/61A 61B 61C & 61D (Old No. 3/61) situated in S.F.No.85/B2 of Avinashi Village and Taluk Tirupur District except under due process of law.

WP.No. 11852/2010:- Filed under Article 226 of the constitution of India praying for issuance of a Writ of Certiorarified Mandamus to Call for the records of the 2nd Respondent herein pertaining to the Notice issued dated 20.05.2010 made in Na.Ka.No.2322/2010/A4 and as well as the consequential notice dated 01.06.2010 issued to Petitioner by the 3rd Respondent herein and Quash the same and further direct the Respondents herein not to interfere with the Petitioner peaceful possession and enjoyment of the Petitioner properties at No.3/52 to 3/60 & 3/60A Main Road Avinashi Town and Taluk Tirupur District which is situated in S.F.No.85/B2 of Avinashi Village and Taluk except under due process of law.

For Appellant : Mr.P.M.Duraiswamy
For Respondents 1 to 3 : Mr.T.N.Rajagopalan
Spl. Govt. Pleader
For Respondent - 4 : Mr.Richardson Wilson
For M/s. P.Wilson Associates

J U D G M E N T

(Delivered by the Hon'ble Acting Chief Justice)

The writ appeal is directed against the common order of the learned single Judge dated 26.8.2010 made in W.P.Nos.11848, 11847, 11852, 11849, 11775, 11851 and 11850 of 2010.

2. Heard the learned counsel appearing for the appellants, the learned Special Government Pleader appearing for the respondents 1 to 3 and the learned counsel appearing for the fourth respondent.

3. The appellants are the absolute owners of their respective land and buildings in S.F.No.85/B2 in Avinashi Town and Taluk, Tiruppur District and they have been paying house tax, water charges, etc. According to the appellants, since 1993, the revenue authorities, claiming that the lands which are in possession of the appellants are Poramboke land, often used to issue notices to the appellants to explain their title or status of their possession and the appellants used to submit their explanations. On 20.5.2010, the second respondent issued notices to the appellants calling them to appear before him on 27.5.2010 for enquiry in respect of the encroachment made by them and accordingly, the appellants appeared before the second respondent and contended that the lands in question are Grama Natham and not Poramboke land. However, on 01.6.2010, the third respondent issued notices under Section 6 of the Tamil Nadu Land Encroachment Act, to the appellants to vacate the lands in question within seven days, failing which, they would be evicted. Aggrieved by the said notice, the appellants filed writ petitions and the same were disposed of directing the appellants to prefer an appeal before the competent authority.

4. The learned counsel appearing for the appellants contended that the land in question is Grama Natham and therefore, the appellants cannot be evicted from the land in question and accordingly, sought to set aside the order of the third respondent.

5. The learned Special Government Pleader appearing for the respondents 1 to 3 contended that the land in question is required for widening of National Highways and therefore, notices were issued to the appellants by following due procedure of law and that the appellants have an alternative remedy of appeal against the notice issued by the third respondent and that without exhausting the said remedy, they have come up before this Court.

6. Admittedly, the land in question is required for public purpose, namely widening of the National Highways. Therefore, the third respondent issued notice to the appellants to vacate the said land. If the appellants are aggrieved by the said notice, the appellants had an alternative remedy of appeal before the competent authority and therefore, they ought to have preferred an appeal. But, the appellants, approached this Court to quash the notices issued by the respondents 2 and 3, without exhausting the alternative remedy of appeal.

7. Taking note of the fact that the appellants have filed the writ petitions, without exhausting the remedy of appeal, the learned single Judge had rightly directed the appellants to prefer an appeal and also directed the competent authority to decide the appeal, after providing an opportunity of hearing to all parties and till such time, directed all the parties to maintain status quo.

8. We do not find any reason to interfere with the order of the learned single Judge. Accordingly, the writ appeals are dismissed. However, the appellants are at liberty to prefer an appeal to the District Collector concerned within a period of one month time from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, connected Miscellaneous petitions are closed. There shall be no order as to costs. Consequently, CMP No.13101 of 2016 is closed.

सत्यमेव जयते

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

kpl

To

1.The District Collector
Tirupur District
Tirupur.

2.The Revenue Divisional Officer
Tirupur Division
Tirupur.

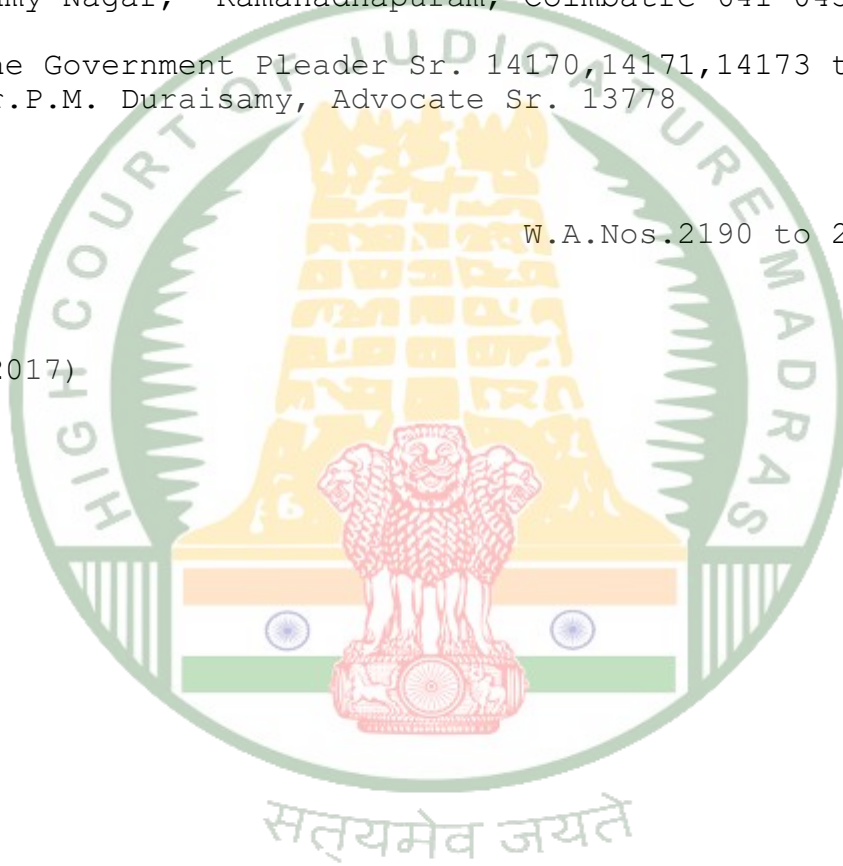
3.The Tahsildar
Avinashi Taluk
Avinashi
Tirupur District.

4.National Highways Authority of India,
Office of the Project Director of Manager,
No.51/2(Old No. 28/1) 50 feet road,
Krishnasamy Nagar, Ramanadhapuram, Coimbatre 641 045

+6cc to the Government Pleader Sr. 14170,14171,14173 to 14176
+7cc to Mr.P.M. Duraisamy, Advocate Sr. 13778

W.A.Nos.2190 to 2196 of 2010

RJ(CO
VR(06/04/2017)



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