

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:07.07.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE N.SESHASAYEE

W.P.No.17288/2017 & WMP.Nos.18786 to 18788/2017

1.S.Sakthivel
2.C.Mariappan
3.G.Valliammal
4.C.Venkatachalam
5.Deivanai

...Petitioners

Vs

1. The Secretary to Government
Housing & Urban Development
Department, Fort St George,
Chennai 600 009.
2. The District Collector
Salem.
3. The Revenue Inspector,
Karpur, Salem District.
4. The Tahsildar
Omalur Taluk, Salem District.

...Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorarified mandamus calling for the records of the 3rd respondent's impugned notice issued under section 6 of the Chennai Land Encroachment Act, 1905 [Act No.3] dated 29.01.2016 to vacate the petitioner's residential houses and quash the same as illegal and consequently, direct the 4th respondent to grant patta as per orders issued in G.O.[Ms] No.854, dated 30.12.2006 to the house sites of petitioners to [1]Mr.Sakthivel, M/o.Masilamani, residing at D.No.II/210, [2] Mr.Mariappan, son of Chinnapaiyan, residing in D.No.II/211 , [3] Mrs.Valliammal, wife of Gopal, residing at D.No.II/212, [4]Mr.Venkatachalam, son of Chinnapaiyan, residing at D.No.II/214, [5] Deivanai, wife of P.Ramalingam, residing at D.No.II/216, situated in survey No.59/1, of Vellakkalpatti village, Omalur Taluk, Salem District.

For Petitioners : Mr.M.Kalyanasundaram, SC
assisted by Mr.P.Mohanraj
For Respondents : Mr.R.Vijayakumar, AGP

ORDER

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

By consent, the writ petition is taken up for final disposal. Mr.R.Vijayakumar, learned Additional Government Pleader accepts notice on behalf of the respondents.

2 The petitioners in the affidavit filed in support of this writ petition, would aver among other things, that they are the residents in Survey No.59/1, Vellakkalpatti Village, Omalur Taluk, Salem District, for decades together and also put up superstructures and also paying statutory levies. The petitioners would further aver that the entire stretch of land in S.No.59/1, admeasuring to an extent of 1.27.00 Hectares was classified during British Regime as "Dharsi" which means, waste land or non-arable land and out of the total extent, the petitioners are only in possession of 46 cents and the remaining major portion of lands is being used by the residents of four villages as burial ground. The petitioners also aver that they belong to lower economic strata of Society and eking out their livelihood by doing Coolie and other allied works.

3 MR.M.Kalyanasundaram, learned Senior Counsel assisted by Mr.P.Mohanraj, learned counsel appearing for the petitioners would submit that immediately after the receipt of the impugned notice issued under section 6 of the Tamil Nadu Land Encroachment Act, 1905, the petitioners submitted an appeal petition dated 02.01.2017 to the 2nd respondent and it would be suffice to direct either the said official or his subordinate officer authorised by him to dispose of the appeal in accordance with law at an early date and till such time, their possession may be protected.

4 This Court heard the submissions of Mr.R.Vijayakumar, learned Additional Government Pleader appearing for the respondents and also perused the materials placed before this Court.

5 In the light of the limited prayer sought for by the learned Senior Counsel appearing for the petitioners, this Court grants liberty to the petitioners to file individual appeals to the 2nd respondent within a period of two weeks from the date of receipt of a copy of this order and upon receipt of the same, the said appeals have to be entertained if the papers

are otherwise in order and either the 2nd respondent or the subordinate official authorised by him, shall dispose of the said appeal petitions to be filed by the petitioners, on merits and in accordance with law and pass appropriate orders within a further period of six weeks thereafter and till such time, shall defer the decision in respect of the impugned notice issued under section 6 of the Tamil Nadu Land Encroachment Act, 1905.

6 The writ petition stands disposed of with the above direction. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

AP

To

1. The Secretary to Government Housing & Urban Development Department, Fort St George, Chennai 600 009.
2. The District Collector Salem.
3. The Revenue Inspector, Karpur, Salem District.
4. The Tahsildar Omalur Taluk, Salem District.

+1cc to the Government Pleader Sr. 48094
+1cc to Mr.P.Mohanraj, Advocate Sr. 47509

WP.NO.17288/2017

AR(V)
VR(11/07/2017)