

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2017

CORAM

THE HON'BLE Mr. JUSTICE M.M.SUNDRESH

W.P.Nos.39204 & 40792 of 2016
& WMP Nos.33577 & 33578 of 2016

P.Elangovan

.. Petitioner in
both W.Ps.

Vs.

1 The District Collector,
Thiruvannamalai District,
Collector's Office, Thiruvannamalai.

2 The Tahsildar,
Chengam Taluk, Chengam-606 701.
Thiruvannamalai District.

3. The Executive Officer,
Chengam Town Panchayat,
Chengam-606 701.
Thiruvannamalai District.

4. The Assistant Executive Engineer,
Highways Department,
Chengam-606 701.

.. Respondents in
both W.Ps.

Writ Petition in W.P.No.39204 of 2016 is filed under Article 226 of The Constitution of India praying to issue a writ of mandamus to direct the respondents to reinstate the petitioner into the vacant site which is situated next to the shop No.1 at Chengam New Bus Stand and consequently, direct the respondents to pay compensation to the tune of Rs.20,00,000/- (Rupees twenty lakhs only) for causing damages to the petitioner's shop.

Writ Petition in W.P.No.40792 of 2016 filed under Article 226 of The Constitution of India praying to issue a writ of mandamus to direct the 1st respondent for taking appropriate action against the erring officials for unauthorized demolition without following due process of law when the petitioner is in lawful possession in the leased property which is situated next to the Shop No. 1 at Chengam New Bus Stand.

For Petitioner .. Mr.A.Srinivasan
in both W.Ps.

For respondents .. Mr.P.V.Selvakumar
in both W.Ps. Addl. Government Pleader for R1, R2 & R4

Mrs.P.Rajalakshmi
Government Advocate for R3

COMMON ORDER

The petitioner, who was put in possession by the proceedings of the third respondent dated 31.03.2005, subsequently evicted by the fourth respondent, has come forward to file this writ petition seeking to reinstate the petitioner in the said place with the consequential relief of compensation to be paid to him.

2. The learned counsel appearing for the petitioner would submit that the property belongs to the third respondent. The petitioner's lease was renewed lastly upto the year 2014. Thereafter, he paid the requisite fees and thus, allowed to continue. Hence, there is a deemed renewal in favour of the petitioner. But, unilaterally, without due process, the fourth respondent has evicted the petitioner and hence, the writ petition will have to be allowed.

3. The learned Additional Government Pleader appearing for respondents 1, 2 and 4 would submit that the land belongs to the fourth respondent-Highways Department. There is no lease in currency. The petitioner is nothing but an encroacher. He has put up construction and let it for sub lease in favour of the third party by name one Jayakumar. Due process has been followed. Paper publication and publication through tom tom has been made before eviction. The Traders' Association has also made a representation. Accordingly, the eviction was deferred. Thereafter, it was effected. Hence, no interference is required.

4. First of all, the reliance sought to be made by the learned counsel for the petitioner qua the third respondent on the Government Order in G.O.Ms.No.92 Municipal Administration and Water Supply Department dated 03.07.2007 said to have been passed in the year 2007 cannot be accepted. The said Government Order does not have application to the case of a lessee/licensee, who is in possession and enjoyment of the shop for decades. Even otherwise, the said Government Order can be applied from the year 2007 for nine years, which period has already elapsed. There is no lease or licence in currency on the part of the petitioner from the third respondent.

5. Secondly, there is a dispute as to whether the said land belongs to the third respondent. It is the specific case of respondents 2 and 4 that the land belongs to the fourth respondent. In a dispute like this, the Revenue Authority viz., the second respondent is an appropriate authority. The third respondent has not come before this Court claiming the said land as a one belongs to it. Classification was made in the Revenue records that the said land is classified as "Government Thoppu Poramboke". The local body cannot claim "Government Thoppu Poramboke" even as per the classification. The fact that notices have been issued by informing the public in newspapers as well as tom-tom is not in dispute. The petitioner has not produced any material to show that he is a Member of the Changan Taluk, which made a representation, which was accepted and an action was deferred. Even otherwise, there is no necessity to give individual notice to the petitioner. Admittedly, the petitioner has been removed by divesting the possession of the sub lessee. The petitioner seeks to canvass the disputed question of fact before this Court. This Court does not find any merit in this writ petition. The question of compensation also cannot be decided in this proceedings, even if the petitioner makes out a case, which is not the situation before us. In such view of the matter, the writ petitions stand dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

- 1 The District Collector,
Thiruvannamalai District,
Collector's Office,
Thiruvannamalai.
- 2 The Tahsildar, Chengam Taluk,
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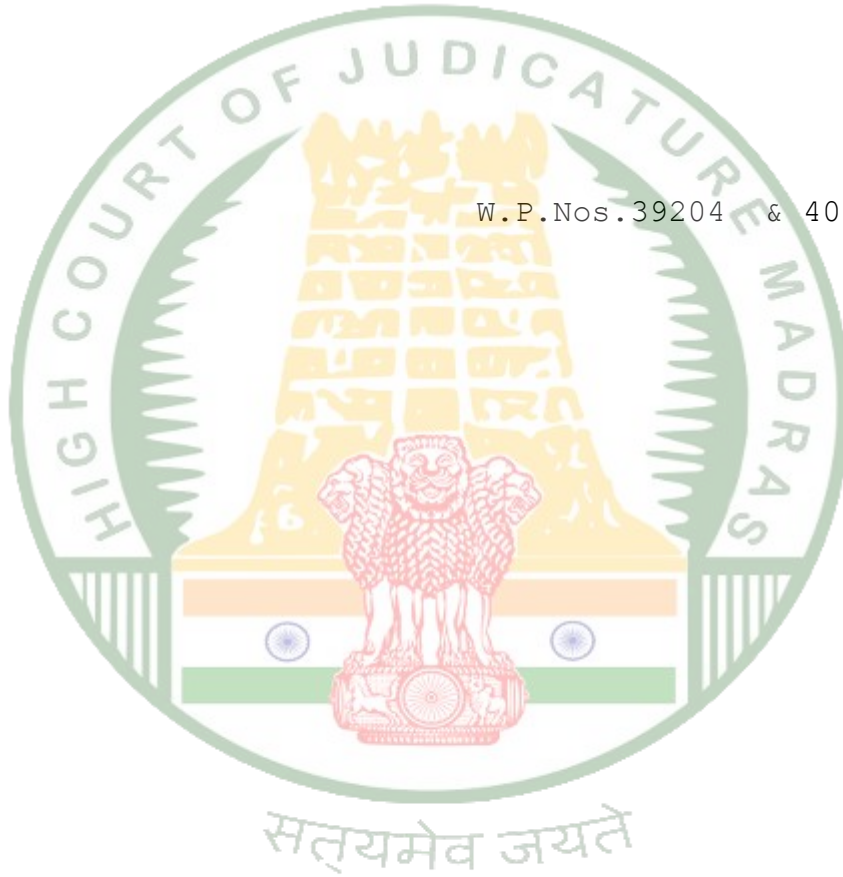
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Thiruvannamalai District.

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Highways Department,
Chengam-606 701.

+1 CC to Mr.A.Srinivasan, Advocate sr 19213

+1 Cc to Mr.A.Srinivasan, Advocate sr 19212(19/04/2017)

RSY (CO)
sp/10/4



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