

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2017

CORAM :

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

W.P.Nos.44571 to 44580 of 2016
and
W.M.P.Nos.38378 to 38397 of 2016

H.Mohammed Sanaullah ... Petitioner in W.P.44571 of 2016
R.Karpagam ... Petitioner in W.P.44572 of 2016
Easwari ... Petitioner in W.P.44573 of 2016
K.Govindasamy ... Petitioner in W.P.44574 of 2016
C.Elumalai ... Petitioner in W.P.44575 of 2016
S.Valarmathi ... Petitioner in W.P.44576 of 2016
Y.Issac ... Petitioner in W.P.44577 of 2016
A.Ezhumalai ... Petitioner in W.P.44578 of 2016
M.Krishnaveni ... Petitioner in W.P.44579 of 2016
I.Anandhi ... Petitioner in W.P.44580 of 2016

-Vs-

1. The District Collector,
Kanchipuram District.
2. The Tahsildar,
Pallavaram Taluk Office,
Kanchipuram District.
3. The Assistant Engineer,
Public Works Department,
W.R.D. Adayar Irrigation Work,
St. Thomas Mount, Chennai.
4. The Member Secretary,
Chennai Metropolitan Development Authority,
Egmore, Chennai. ... Respondents in all W.Ps

Writ Petitions filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorarified Mandamus,

W.P.No.44571 of 2016 : to call for the records relating to the impugned order of the third respondent in Proceeding Number Nil dated 2.11.2016 and quash the same and further forbearing the respondents from interfering with the petitioner's peaceful possession and enjoyment of his property situated at Survey

No.181, Dobikana Street, Mookambikai Nagar, Anagaputhur, Pallavaram Taluk, Kanchipuram District and for consequential relief thereof.

W.P.No.44572 of 2016 : to call for the entire records relating to the impugned order of the 3rd respondent in proceeding Number Nil dated 02.11.2016 and quash the same and further forbearing the respondents from interfering with the petitioner's peaceful possession and enjoyment of his property situated at Survey No.181, Dobikana Street, Moogambikai Nagar, Anagaputhur, Pallavaram Taluk, Kanchipuram District and for consequential relief thereof.

W.P.No.44573 of 2016 : to call for the entire records relating to the impugned order of the 3rd respondent in proceeding Number Nil dated 02.11.2016 and quash the same and further forbearing the respondents from interfering with the petitioner's peaceful possession and enjoyment of her property situated at Survey No.178, Thai Moogambikai Nagar, Anagaputhur, Pallavaram Taluk, Kanchipuram District and for consequential relief thereof.

W.P.No.44574 of 2016 : to call for the entire records relating to the impugned order of the 3rd respondent in proceeding Number Nil dated 02.11.2016 and quash the same and further forbearing the respondents from interfering with the petitioner's peaceful possession and enjoyment of his property situated at Survey No.136, Santhi Nagar, Anagaputhur, Pallavaram Taluk, Kanchipuram District and for consequential relief thereof.

W.P.No.44575 of 2016 : to call for the entire records relating to the impugned order of the 3rd respondent in proceeding Number Nil dated 02.11.2016 and quash the same and further forbearing the respondents from interfering with the petitioner's peaceful possession and enjoyment of his property situated at Survey No.136, Santhi Nagar, Anagaputhur, Pallavaram Taluk, Kanchipuram District and for consequential relief thereof.

W.P.No.44576 of 2016 : to call for the entire records relating to the impugned order of the 3rd respondent in proceeding Number Nil dated 02.11.2016 and quash the same and further forbearing the respondents from interfering with the petitioner's peaceful possession and enjoyment of her property situated at Survey No.178, Second Street, Mookambikai Nagar, Anagaputhur, Pallavaram Taluk, Kanchipuram District and for consequential relief thereof.

W.P.No.44577 of 2016 : to call for the entire records relating to the impugned order of the 3rd respondent in proceeding Number Nil dated 02.11.2016 and quash the same and further forbearing the respondents from interfering with the petitioner's peaceful

possession and enjoyment of his property situated at Survey No.181, Dobikana Street, Mookambikai Nagar, Anagaputhur, Pallavaram Taluk, Kanchipuram District and for consequential relief thereof.

W.P.No.44578 of 2016 : to call for the entire records relating to the impugned order of the 3rd respondent in proceeding Number Nil dated 02.11.2016 and quash the same and further forbearing the respondents from interfering with the petitioner's peaceful possession and enjoyment of his property situated at Survey No.178, Second Street, Mookambikai Nagar, Anagaputhur, Pallavaram Taluk, Kanchipuram District and for consequential relief thereof.

W.P.No.44579 of 2016 : to call for the entire records relating to the impugned order of the 3rd respondent in proceeding Number Nil dated 02.11.2016 and quash the same and further forbearing the respondents from interfering with the petitioner's peaceful possession and enjoyment of her property situated at Survey No.181, Dobikana Street, Mookambikai Nagar, Anagaputhur, Pallavaram Taluk, Kanchipuram District and for consequential relief thereof.

W.P.No.44580 of 2016 : to call for the entire records relating to the impugned order of the 3rd respondent in proceeding Number Nil dated 02.11.2016 and quash the same and further forbearing the respondents from interfering with the petitioner peaceful possession and enjoyment of her property situated at Survey No.136, 2nd Street, Shanthi Nagar, Anagaputhur, Pallavaram Taluk, Kanchipuram District and for consequential relief thereof.

For Petitioners : Mr.V.T.Balaji

For Respondents : Mr.M.K.Subramanian
Government Pleader
for RR 1 to R3

Mr.K.Raja Srinivas for R4

COMMON ORDER

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

The learned Government Pleader concedes that the process of enquiry as envisaged in the judgment of the Division Bench in T.S.Senthil Kumar v. The Government of Tamil Nadu and others, (2010) 3 MLJ 771, has admittedly not been followed in the present cases. He, however, submits that the scope of enquiry is limited to the extent whether it is patta land and/or whether it is a water body.

2. It is nobody's case that pattas have been issued in respect of these lands. Thus, the scope of enquiry is limited to the extent whether the area is a water body and covered under the provisions of the Tamil Nadu Protection of Tanks and Eviction of Encroachments Act, 2007 or not.

3. Thus, it is agreed that the notices impugned in the present writ petitions, which have been received by the individual petitioners, will be treated as a notice to show cause and they may file their reply within fifteen days with material to establish that the area in question is not a water body covered under the provisions of the said Act. An enquiry would be held and thereafter appropriate orders passed by the competent authority within a maximum period of one month thereafter. Naturally, till the enquiry is not completed, no coercive process will be taken and in case the verdict is against the petitioners, for a period of two weeks after communication of the order to the petitioners.

4. These petitions stand disposed of accordingly. No costs. Consequently, W.M.P.Nos.38378 to 38397 of 2016 are closed.

Sd/-

Assistant Registrar(CS V)

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To

Sub Assistant Registrar

1. The District Collector,
Kanchipuram District.
2. The Tahsildar,
Pallavaram Taluk Office,
Kanchipuram District.
3. The Assistant Engineer,
Public Works Department,
W.R.D. Adayar Irrigation Work,
St. Thomas Mount, Chennai.
4. The Member Secretary,
Chennai Metropolitan Development Authority,
Egmore, Chennai.

+lcc to Mr.Rajashrinivas, Advocate, S.R.No.409

+lcc to the Government Pleader, S.R.No.818

W.P.Nos.44571 to 44580 of 2016

MG(CO)CA(19/01/2017)