

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2017

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.25807 to 25809 of 2004

and

W.P.M.P.Nos.31370 to 31372 of 2004

P.Duraiyappan ... Petitioner in W.P.No. 25807 of 2004
R.Manimekalai ... Petitioner in W.P.No. 25808 of 2004
D.Ravi ... Petitioner in W.P.No. 25809 of 2004

Vs

1. The Tahsildar,
Mayiladuthurai,
Nagapattinam District.
 2. The Revenue Divisional Officer,
Mayiladuthurai,
Nagapattinam District.
- .. Respondents in all the WPs.

Petitions filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the order of the first respondent in Na.Ka.No. 12988/2002/B6 dated 23.08.2004 and to quash the same as without jurisdiction and consequentially forbearing the respondents herein from in any way disturbing the peaceful possession of the petitioner residing in the property situated in Door No.38, T.S.No.1410, Thiruvilandur, Mayiladuthurai.

For Petitioner in : Mr.R.Shivakumar
all the WPs.
For Respondents : Mrs.K.Bhuvaneswari,
in all the WPs. Government Advocate

COMMON ORDER

The petitioners challenge the eviction notice issued under the Tamil Nadu Land Encroachment Act.

2.The facts of the case are that the properties comprised in T.S.Nos.1409, 1410, 1411 and 1413 are situated in 45, Thiruvilandur Village of Mayiladuthurai Taluk. One Thiru Ramanuja Swamy Sanniyasi Madam, Thiruvilandur applied for granting patta transfer in respect of T.S.No.1410. One Anbanathapram Vagaiyara Charity, Thiruvilandur making a claim as if the said property belongs to them as per the resolution passed on 11.09.1997 and on that basis the said Ramanuja Swamy was allowed to put up thatched shed and conduct an Ashram and a portion of the said property was given through Court Proceedings in O.S.No.563 of 1971 on the file of the District Munsif Court, Mayiduthurai. The said Sanniyasi Madam was not there for the past 100 years and the document dated 27.08.1971 relied upon by the Sanniyasi Madam cannot be pressed into service. In the circumstances, the impugned order has been passed to evict the petitioners.

3.A counter affidavit has been filed by the respondents in which it is stated that T.S.No.1410 is classified in the Government Records as poramboke and nandavanam and on that basis, they gave a finding that Ramanjua Swamy Sanniyasi Madam is in possession of the said property for long number of years and the title of Anbanathapuram Vagaiyara Charity was not established and a recommendation was made as per the Revenue Standing Order No.31(7) to fulfil the conditions.

4.Heard the learned counsel on either side and perused the materials available on record.

5.As against the notice issued under Section 6 of the Land Encroachment Act, the petitioners have a remedy by way of filing appeal under Section 10 of the Land Encroachment Act before the Revenue Divisional Officer and thereafter a revision can be filed under Section 10(A) of the Act before the District Revenue Officer. In view of the remedies available as stated, this Court is not inclined to entertain the writ petitions filed under Article 226 of the Constitution of India. Hence these writ petitions are dismissed giving liberty to the petitioners to approach the appropriate authorities, in accordance with law. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

KM

To

1.The District Munsif,
Mayiladuthurai.

2. The Tahsildar,
Mayiladuthurai,
Nagapattinam District.

3. The Revenue Divisional Officer,
Mayiladuthurai,
Nagapattinam District.

+1cc to the Government Pleader Sr. 66238

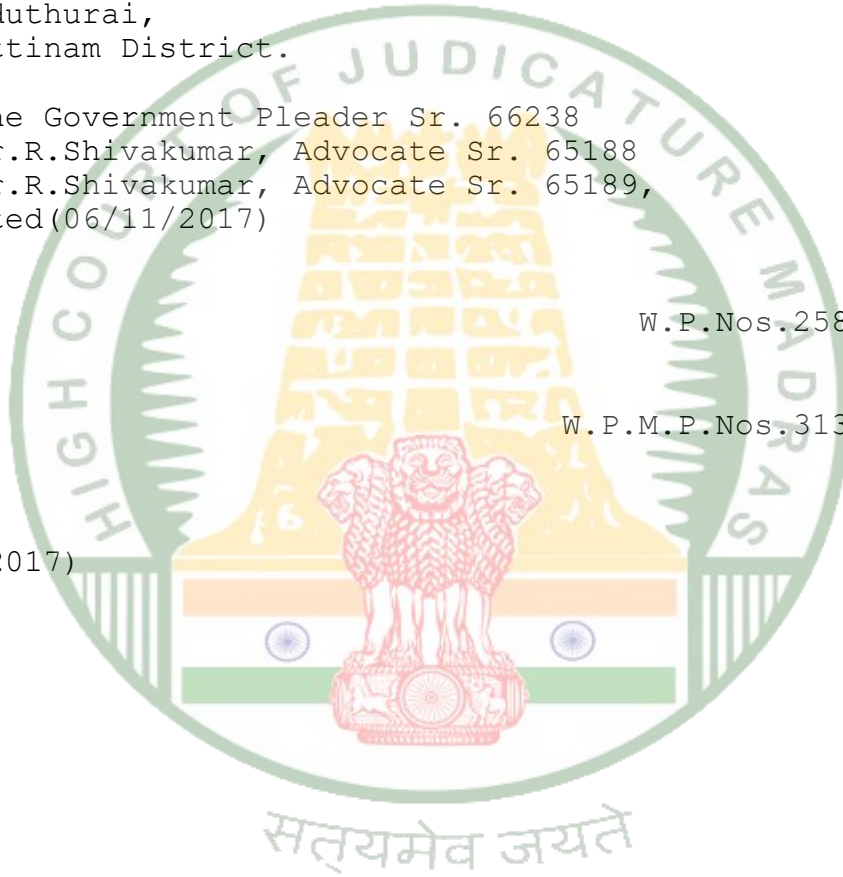
+1cc to Mr.R.Shivakumar, Advocate Sr. 65188

+2cc to Mr.R.Shivakumar, Advocate Sr. 65189,
65190 dated(06/11/2017)

W.P.Nos.25807 to 25809
of 2004
and

W.P.M.P.Nos.31370 to 31372
of 2004

KK(CO)
VR(24/10/2017)



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