



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.01.2017

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THE HON'BLE MR.JUSTICE A.SELVAM

and

THE HON'BLE MR.JUSTICE P.KALAIYARASAN

W.P(MD) Nos.23446, 23448 & 23449 of 2015

15117 of 2016 and Cont.P(MD)No.1607 of 2016

MP(MD)Nos.1,1,1 & 1 of 2015, WMP(MD)Nos.526 to 528 of 2016 and WMP
(MD)No.11146 of 2016

R.Eswaran .. Petitioner in WP(MD)No.23446/2015
R.Jayaraman @ Kannan .. Petitioner in WP(MD)No.23448/2015
C.Thandapani .. Petitioner in WP(MD)No.23449/2015
K.Munichamy .. Petitioner in WP(MD)No.15117/2016

-vs-

The District Collector,
Madurai District, Madurai.

The Tahsildar - East,
Madurai East Taluk,
Office of the District Collector,
Madurai.

... Respondents in all W.Ps.

WP(MD)No.23446 of 2015 filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the 2nd respondent in unnumbered notice addressed to the petitioner issued under Chennai Act III of 1905 dated 15.12.2015 and quash the same and further direct the respondent to consider in assigning the extent of land in occupation and issue patta in S.No.28/3 Meenakshipuram II bit, Kallandiri Firka, Madurai East Taluk, Madurai District as per procedure established by law.

WP(MD)No.23448 of 2015 filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the 2nd respondent in unnumbered notice addressed to the petitioner issued under Chennai Act III of 1905 dated 15.12.2015 and Quash the same and further direct the respondent to consider in assigning the extent of land in occupation and issue patta in S.No.30/2 Meenakshipuram II bit,



Kallandiri Firka, Madurai East Taluk, Madurai Dist as per procedure established by law.

WP(MD)No.23449 of 2015 filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the 2nd respondent in nunumbered notice addressed to the petitioner issued under Chennai Act III of 1905 dated 15.12.2015 and quash the same and further direct the respondent to consider in assigining the extent of land in occupation and issue patta in S.No.28/3 Meenakshipuram - II bit, Kallandiri Firka, Madurai East Taluk, Madurai DsitRICT as per procedure established by law.

WP(MD)No.15117 of 2016 filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to grant patta for petitioners house site bearing Door No.5/104, Gandhi Nagar, Meenakshipuram, Alagarkovil via., Mangulam, Madurai situated in Survey No.28/3 measuring approx.4 cents Kallandiri Firka of Meenakshipuram 2nd Bit of Madurai East Taluk, Madurai by considering petitioner's representation dated 20.05.2015 within the period stipulated by this Court.

For Petitioners	: Mr.N.Sundareshan WP(MD)Nos.23446, 23448 & 23449/15
For Petitioner	: Mr.A.Haja Mohideen WP(MD)No.15117/2016
For Respondents	: Mr.D.Muruganandam Additional Government Pleader (all WPs.)

Cont P(MD)No.1607 of 2016

S.Sevugan .. Petitioner

vs.

S.Karuppiyah
The Tahsildar,
Madurai East Taluk,
Madurai District. .. Respondent

Contempt Petition filed under Section 11 of the Contempt of Court Act, 1971 to initiate contempt proceedings against the Contemnror/Respondent and punish him for the willful disobedience of the order of this Court in W.P.(MD)No.19651 of 2015 dated 29.10.2015.

[https://hccs.courts.gov.in/WP\(MD\)/19651/2015](https://hccs.courts.gov.in/WP(MD)/19651/2015) :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue WRIT OF



MANDAMUS directing the respondents No.1, 2 and 3 to remove the encroachment made in the lands which are situated in survey Nos.28/3, 30/2, 139. 140 Gandhinagar, Meenakshipuram village, Kallandhiri Madurai East Taluk, Madurai District based on the 2nd respondents order dated 04.03.2008 in Na.Ka.no.E2/16679/07.

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For Petitioner : Mr.C.M.Marichelliah Prabhu
For Respondent : Mr.D.Muruganandam
Additional Government Pleader

COMMON ORDER

[Order of the Court was made by **A.SELVAM, J.**]

Writ Petition Nos.23446, 23448 and 23449 of 2015 have been filed under Article 226 of the Constitution of India praying to call for records relating to the notices dated 15.12.2015 issued by the second respondent under Chennai Act III of 1905 and quash the same.

2.Likewise, WP(MD)No.15117 of 2016 has been filed for directing the respondents therein to issue patta in respect of Survey No.28/3 by way of issuing a Writ of Mandamus.

3.Considering the fact that in all the Writ Petitions, Survey Nos.28/3 and 30/2 in the same village are involved, common order is passed.

4.The learned counsel appearing for the petitioners in Writ Petition Nos.23446, 23448 and 23449 of 2015 has repeatedly contended that in Survey Nos.28/3 and 30/2 the petitioners have put up a small huts and now the second respondent has issued the notices in question and in order to quash the same, the present Writ petitions have been filed.

5.The learned counsel appearing for the petitioner in WP (MD)No.15117 of 2016 has contended to the effect that in Survey No.28/3, the petitioner therein has put up a small hut and for the purpose of directing the respondents to give assignment, the present Writ Petition has been filed.

6.The learned Additional Government Pleader appearing for the respondents has contended that the petitioner found in Cont.P (MD)No.1607 of 2016 as petitioner has filed WP(MD)No.19651 of 2015, wherein a direction has been given to the respondent therein to consider the representation alleged to have been given by the petitioner in respect of removal of encroachments made in Survey Nos.28/3, 30/2, 139 and 140 and since the respondent/contemnor has failed to obey the condition, the present Contempt Petition has been filed.

<https://hcservices.ecourts.gov.in/hcservices/>

7.On the basis of the divergent submissions made on either



side, the Court can easily discern that with regard to Survey Nos.28/3, 30/2, WP(MD)Nos.23446, 23448 & 23449 of 2015 have been filed. Likewise, for the purpose granting assignment in respect of Survey No.28/3, WP(MD)No.15117 of 2016 has been filed.

8.It is an admitted fact that Survey Nos.28/3 and 30/2 have been classified as Government Tharisu as well as Manthai poramboke and the petitioners found in WP(MD)Nos.23446, 23448 and 23449 of 2015 have put up huts in the said Survey Numbers. It is also equally an admitted fact that the petitioner found in Cont.P(MD) No.1607 of 2016 has filed WP(MD)No.19651 of 2015, wherein a specific direction has been given to consider the representation with regard to removal of encroachments.

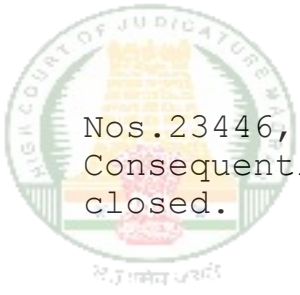
9.As adverted to earlier, Survey Nos.28/3 and 30/2 belong to the Government, wherein certain huts are in existence and further as mentioned supra, in WP(MD)No.19651 of 2015, this Court has directed the respondent therein to consider the representation alleged to have been given by the petitioner with regard to removal of encroachments mentioned in Survey Nos.28/3, 30/2, 139 and 140.

10.On the basis of the direction given by this Court in WP (MD)No.19651 of 2015, the notices mentioned in WP(MD)Nos.23446, 23448 and 23449 of 2015 have been issued. Since the notices in question have been issued only as per the direction of this Court, this Court is of the view that there is no illegality on the part of the second respondent in issuing such kind of notices. Under the said circumstances, WP(MD)Nos.23446, 23448 and 23449 of 2015 are liable to be dismissed.

11.The petitioner in WP(MD)No.15117 of 2016 has prayed to direct the respondents to give assignment in respect of Surevy No.28/3. Since Survey No.28/3 is the absolute property of the Government, the Government is having prerogative power either to grant assignment or reject it. Under the said circumstances, the relief sought in WP(MD)No.15117 of 2016 cannot be granted and therefore, WP(MD)No.15117 of 2016 is also liable to be dismissed.

12.It has already been pointed out that in pursuance of the direction given by this Court in WP(MD)No.19651 of 2015, notices as contemplated under law have been issued to the alleged encroachers and therefore, question of disobeying the order on the part of the contemnor does not arise and therefore, Cont.P(MD) No.1607 of 2016 is also liable to be dismissed.

13.In fine, WP(MD)Nos.23446, 23448 and 23449 of 2015 and 15117 of 2016 are dismissed without cost. Likewise, Cont.P(MD) No.1607 of 2016 is also dismissed without cost. If there is any possibility on the part of the respondents, directed to provide alternative accommodation to the petitioners found in WP(MD)



Nos.23446, 23448 and 23449 of 2015 and 15117 of 2016.
Consequently, all the connected Miscellaneous petitions are
closed.

Sd/-
Assistant Registrar(CSII)

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/True Copy/

Sub Assistant Registrar

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To

- 1.The District Collector,
Madurai District, Madurai.
- 2.The Tahsildar - East,
Madurai East Taluk,
Office of the District Collector,
Madurai.
- 3.S.Karuppiah
The Tahsildar,
Madurai East Taluk,
Madurai District.

+1cc to Mr.A.Haja Mohideen, Advocate Sr.No.3167

+1cc to Mr.N.Sundareshan, Advocate Sr.No. 3362

+1cc to Spl.Government Pleader Sr.No. 3342

JAM/03.02.17/SV-MMS/5p-7c

W.P(MD) Nos.23446, 23448 & 23449 of 2015
15117 of 2016 and Cont.P(MD)No.1607 of 2016
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