



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.11.2017

CORAM:

**THE HONOURABLE MR.JUSTICE M.VENUGOPAL
AND
THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE**

W.P. (MD) No.20783 of 2017 and
W.M.P. (MD) Nos.17069 and 17070 of 2017

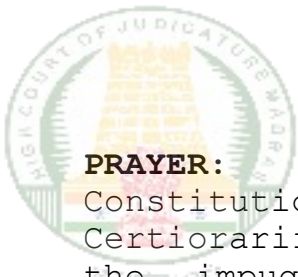
- 1.Janaki
- 2.Sagunthala
- 3.Palanikumar
- 4.P.Akkini Thai
- 5.Samarasam
- 6.Paramasivan
- 7.Muniyaraj
- 8.Petchiammal
- 9.Mahalingam
- 10.Senthur Pandian
- 11.Velusamy Thevar
- 12.Manohar
- 13.Muthuramalingam
- 14.Senthur Pandian

: Petitioners

-Vs-

1. The District Collector,
Tirunelveli District,
Tirunelveli.
2. The Tahsildar,
Sankarankovil Taluk,
Tirunelveli District.
3. The Block Development Officer (Village Panchayat),
Melaneelithanallur,
Sankarankovil Taluk,
Tirunelveli District.
4. The Assistant Engineer,
Highways Department,
Sankarankovil,
Tirunelveli District.
5. The Secretary,
Vanni Conenthal Panchayat,
Sankarankovil Taluk,
Tirunelveli District.

: Respondents



PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the entire records, relating to the impugned eviction order in Na.Ka.No.Aa3/2704/2017, dated 12.10.2017 passed by the third Respondent and to quash the same insofar as the Petitioners' properties mentioned in the above impugned order in Serial Nos.1,2,3,4,5,9,16,17,18,20,23,24,27,28,29 and 30 and consequently, to direct the Respondents that not to take any coercive action for evicting the Petitioners from their above mentioned properties without following the due process of law.

For Petitioners : Mr.S.R.Durai Raj

For Respondents : Mr.M.Govindan,
Special Government Pleader

O R D E R

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

Mr.M.Govindan, Learned Special Government Pleader, takes notice for the Respondents 1 to 5.

2. Heard both sides. No counter is filed on behalf of the Respondents 1 to 5.

3. By consent, the main Writ Petition itself is taken up for final disposal at the stage of admission.

4. According to the Petitioners, they had constructed shops in the land in Survey No.579/1 situated in Vanniconenthal Village, Sankarankovil Taluk, Tirunelveli District. They are running petty shops in the afore-stated survey land and they are in possession and enjoyment over the property for more than 25 years. They are paying necessary taxes to the Government authorities without any default.

5. The Petitioners take a plea that the land in Survey No.579/1 in Vanniconenthal Village is the Government Natham Poramboke land. It is their version that they have been permitted to occupy the land by constructing shops. The fifth Respondent/Panchayat has received the house tax from the Petitioners.

6. It comes to be known that the Petitioners were originally issued with the notice dated 19.08.2017 by the third Respondent and by virtue of the said notice, they were informed that they have to remove the encroachment before 15.09.2017. Also, they were informed that in case they do not remove the encroachment in question, then the encroachment would be removed through police as per law. Since they have not removed the encroachment in question, notice dated 12.10.2017 was issued. Further, by virtue of the notice dated



12.10.2017 issued by the third Respondent, the Petitioners were once again informed that they have to remove the encroachment before 20.10.2017. They were also informed that in case they fail to remove the encroachment within the time determined, namely before 20.10.2017, then, through police, as per law, encroachment would be removed and the necessary expenses incurred thereto will be recovered from the concerned encroachers.

7. A mere running of the eye on the notice in Na.Ka.No.Aa3/2704/2017, dated 12.10.2017 issued by the third Respondent addressed to the Petitioners individually, indicates that it does not refer to the relevant Section under which it was issued in respect of a particular act. As such, this Court is of the considered view that the impugned notice dated 12.10.2017 issued by the third Respondent shall be treated by the Petitioners as a show cause notice (in regard to the removal of encroachment by them) and for the said notice, they are granted two weeks time by this Court from today to submit their objections/remarks/representations before the third Respondent. Soon after the receipt of the individual objections/representations from the Petitioners concerned, the third Respondent, without any hastiness or hesitation, is directed to look into the contents of the individual objections/remarks/representations of the Petitioners, within a period of one week thereafter. Later, the third Respondent is directed to pass necessary speaking orders in the subject matter in issue, of course, within a period of four weeks, by adhering to the Principles of Natural Justice and also to hear the Petitioners personally (if situation so warrants/if need be) and the said orders shall be passed by the third Respondent in a fair, free, just, impartial and dispassionate manner, uninfluenced and untrammelled with any of the observations made by this Court in the present Writ Petition. It is open to the Petitioners to raise all factual and legal pleas before the third Respondent, who shall advert to the same and pass qualitative and quantitative orders saying necessary reasons thereto. Till final orders are passed by the third Respondent, the Petitioners shall not be disturbed of their possession in respect of the subject land by any means whatsoever.

8. With the aforesaid observation(s)/direction(s), the Writ Petition stands disposed of. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar



To

1. The District Collector,
Tirunelveli District,
Tirunelveli.

2. The Tahsildar,
Sankarankovil Taluk,
Tirunelveli District.

3. The Block Development Officer (Village Panchayat),
Melaneelithanallur,
Sankarankovil Taluk,
Tirunelveli District.

4. The Assistant Engineer,
Highways Department,
Sankarankovil,
Tirunelveli District.

5. The Secretary,
Vanni Conenthall Panchayat,
Sankarankovil Taluk,
Tirunelveli District.

+ 1 CC TO Mr.M.S.JEYAKARTHIK, ADVOCATE IN SR No. 86456

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 86911

SML

TE/GT/SAR-I : 21/11/2017 : 4P/8C

Order made in
W.P. (MD) No. 20783 of 2017 and
W.M.P. (MD) Nos. 17069 and 17070 of 2017
Dated: 10.11.2017