



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.VENUGOPAL

AND

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD)No.13505 of 2013

and

M.P(MD)No.2 of 2013

1.P.Vasanth

2.R.Balusamy

: Petitioners

.vs.

1. The District Collector,
Ramanathapuram District,
Ramanathapuram.

2. The Revenue Divisional Officer,
O/o The Revenue Divisional Officer,
Rameshwaram Main Road,
Paramakudi,
Ramanathapuram.

3. The Tahsildar,
O/o.The Tahsildar,
Illayankudi Main Road,
Paramakudi,
Ramanathapuram.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying this Court for issuance of a Writ of Certiorarified Mandamus to quash the impugned letter in O.Mu.A3.No.15302-2013, dated 10.7.2013 issued by the Third Respondent and consequently to direct the Respondents to issue the patta or alternative place to reside, to the Petitioners in S.No.14, at Kattu Paramakudi, Paramakudi, Ramanathapuram District.

For Petitioners

: M/s.S.M.A.Jinnah

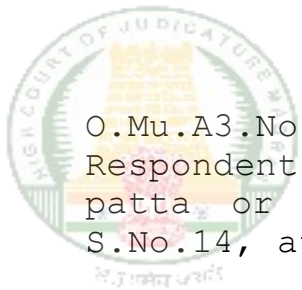
For Respondents

: Mr.M.Govindan

Spl. Govt.Pleader

O R D E R

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



O.Mu.A3.No.15302-2013, dated 10.7.2013 issued by the Third Respondent and consequently to direct the Respondents to issue the patta or alternative place to reside, to the Petitioners in S.No.14, at Kattu Paramakudi, Paramakudi, Ramanathapuram District.

2. Heard both sides.

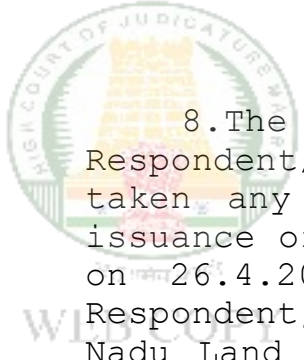
3. By consent, the main Writ Petition itself is taken up for final disposal.

4. Insofar as the First Petitioner is concerned, she is residing at NNJ 226 3/44 K, 17, Gandhiji Road, Paramakudi, Ramanathapuram District. Her husband died due to kidney failure on 24.01.2013. She spent huge amount of money for her husband's treatment and borrowed money from various persons to meet out the medical expenditure of her husband.

5. The contention of the Learned Counsel for the Petitioners is that S.No.14 at Kattu Paramakudi, Paramakudi, Ramanathapuram District is classified as 'Waste Land' near riverside and it has not disturbed the water sources and the first Petitioner's father-in-law namely Maruthu had occupied the said land and constructed a thatched roof house. The First Petitioner has no other place to reside except the afore-stated house. The property is assessed with house-tax and electricity connection is also being provided to her husband, during his life-time and he had paid the property-tax regularly and she is in enjoyment of the said property without any hurdle whatsoever.

6. Insofar as the Second Petitioner is concerned, he is residing in the thatched house in the very same survey number and his father namely, Ramu had occupied the said land and the property was assessed with house-tax and electricity connection is provided to his property and his father had paid the property-tax and he is in enjoyment of the property without any hurdle from any quarters.

7. At this juncture, the Learned Counsel for the Petitioners brings it to the notice of this Court that on 26.05.2005, a notice was issued by the Section Officer of the Public Works Department, Parthibanur Reservoir Section, Paramakudi allegedly under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 calling upon the Petitioners to vacate their dwelling house without issuing any notice under Section 7 of the 'Act', 1905. Therefore, the Petitioners filed W.P.No.4879 of 2005 and W.P.No.4950 of 2005 and on 16.4.2007, this Court had directed the Respondents therein not to act pursuant to the impugned notices both dated 26.5.2005 issued under Section 6 of the 'Act', 1905 and to refer the case to the competent authority to decide the issue afresh after notice to the Petitioners.'



8.The grievance of the Petitioners is that the First Respondent/The District Collector, Ramanathapuram District has not taken any steps to decide the subject-matter in issue after issuance of notice to them. While that being the facts situation, on 26.4.2013, the impugned notice was issued by the Second Respondent, dated 12.4.2013 allegedly under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 calling upon the Petitioners to vacate their dwelling houses within a period of 15 days from the date of receipt of the notice.

9.In reality, it is represented on behalf of the Petitioners that the notice was issued to them on 26.4.2013, but the Respondents were taking steps to demolish their house with machineries immediately.

10.The Learned Counsel for the Petitioners draws the attention of this Court that the Petitioners herein on an earlier occasion filed W.P.No.7965 of 2013 and W.P.No.7966 of 2013, whereby and where-under, the Petitioners were given liberty to prefer an appeal before the District Collector, Ramanathapuram District within a period of 30 days from the date of receipt of a copy of this order and further, it was observed that if such an appeal was filed, the District Collector, Ramanathapuram District shall entertain the appeal and decide the same on merits and in accordance with Law. It was abundantly quite made clear that the Petitioners were not to be dispossessed, if not already dispossessed.

11.The Learned Counsel for the Petitioners points out before this Court that as per the direction of this Court, dated 11.5.2013 in W.P.Nos.7965 of 2013 and 7966 of 2013, the Petitioners preferred independent appeals before the First Respondent under Section 10 of the Tamil Nadu Land Encroachment Act, 1905 and their appeals were numbered in Appeal Nos.030893 of 2013 and 030894 of 2013, on the file of the First Respondent for seeking patta as per G.O.Ms.No.854, Revenue(PERM) 1(2) Department, dated 30.12.2006. Till date the appeals preferred in the year 2013 by the Petitioners are pending on the file of the First Respondent.

12.At this stage, a perusal of the Memorandum of Grounds filed by the Writ Petitioners in the present Writ Petition unerringly points out that the Petitioners have taken a plea that the Third Respondent/The Tahsildar, Paramakudi, Ramanathapuram District who issued notice, has no locus-standi to issue the same and further that, the First Respondent had not taken into consideration of the Petitioners family members, since in their families there are school going children, who are very much affected.

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

13.As far as the present case is concerned, admittedly, two individual appeals of the year 2013 preferred by the Writ



Petitioners 1 and 2 are pending on the file of the First Respondent/The District Collector, Ramanathapuram District.

14. Considering the fact that the individual appeals preferred by the Petitioners 1 and 2 under Section 10 of the Tamil Nadu Land Encroachment Act, 1905 are reportedly pending on the file of the First Respondent without any progression in the subject-matter in issue, at this stage, this Court, without expressing any opinion on the merits and demerits of the contents of the two independent appeal petitions, simpliciter, directs the First Respondent/The District Collector, Ramanathapuram District to look into the two independent appeal petitions preferred by the Petitioners 1 and 2 within a period of two weeks from the date of receipt of a copy of this order. Thereafter, the First Respondent is directed to pass necessary speaking orders on merits as regards the two independent appeal petitions preferred by the Petitioners 1 and 2 in the year 2013, by providing necessary opportunity to the Petitioners 1 and 2 and others concerned, if any, within a period of four weeks thereafter, of course, in the manner known to Law and in accordance with Law. It is open to the Petitioners 1 and 2 to raise all factual and legal pleas before the First Respondent, who shall advert to the same, at the time of passing of final orders in question, meeting out all the points concerned. It is open to the Petitioners 1 and 2 to submit a copy of the independent appeal petitions filed by them in the year 2013 before the First Respondent, owing to the efflux of time and on such presentation of copies of the appeal petitions, the First Respondent shall pass final orders as stated supra. Liberty is granted to the Petitioners 1 and 2 to file supporting documents, if any, to substantiate their claim before the First Respondent. Till the independent appeals filed by the Petitioners 1 and 2 are disposed of by the First Respondent within the time granted by this Court, the possession of the Petitioners 1 and 2 shall not be disturbed by any one, in any manner, whatsoever.

15. With the above said observation(s) and direction(s), the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

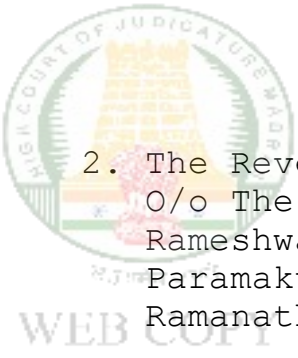
Assistant Registrar (CS-I)

/True copy/

Sub Assistant Registrar

To

<https://hsrtds.court.gov.in/csrtds/>
The District Collector,
Ramanathapuram District,
Ramanathapuram.



2. The Revenue Divisional Officer,
O/o The Revenue Divisional Officer,
Rameshwaram Main Road,
Paramakudi,
Ramanathapuram.

3. The Tahsildar,
O/o. The Tahsildar,
Illayankudi Main Road,
Paramakudi,
Ramanathapuram.

Vsn

MK/SKN RSK/SAR-3/20.11.2017/5P/4C

ORDER MADE IN
W.P. (MD) No. 13505 of 2013
and
M.P (MD) No. 2 of 2013
08.11.2017