

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2018

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.P.Nos.8107 to 8110 of 2018
and WMP.Nos.10082 to 10085 of 2018

E.Thanikachalam ... Petitioner in W.P.No.8107 of 2018
EzhumalaiPetitioner in W.P.No.8108 of 2018
E.KanniyapanPetitioner in W.P.No.8109 of 2018
EzhumalaiPetitioner in W.P.No.8110 of 2018

Vs.

1.The Collector,
Vellore District,
Vellore.

2.The Revenue Divisional Officer,
Ranipet, Vellore District.

3.The Thasildar,
Arakkonam, Vellore District.

... Respondents

Prayer in W.P.No.8107 of 2018: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records on the file of the 3rd respondent in notice issued under Section 6 dated

09.03.2018 by the 3rd respondent pertaining to the land in Survey No.6, Murungai Village to an extent of 0.60.5 and quash the same.

Prayer in W.P.No.8108 of 2018: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records on the file of the 3rd respondent in notice issued under Section 6 dated 09.03.2018 by the 3rd respondent pertaining to the land in Survey No.9, Murungai Village to an extent of 0.01.0 and quash the same.

Prayer in W.P.No.8109 of 2018: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records on the file of the 3rd respondent in notice issued under Section 6 dated 09.03.2018 by the 3rd respondent pertaining to the land in Survey No.6, Murungai Village to an extent of 0.44.5 and quash the same.

Prayer in W.P.No.8110 of 2018: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records on the file of the 3rd respondent in notice issued under Section 6 dated 09.03.2018 by the 3rd respondent pertaining to the land in Survey No.6, Murungai Village to an extent of 0.20.5 and quash the same.

For Petitioner : Mr.K.V.Sanjeevkumar
in all W.Ps.

For Respondents : Mr.R.Udhayakumar
in all W.Ps. Additional Government Pleader for R1 to R3

COMMON ORDER

(Order of the Court was made by **M.SATHYANARAYANAN, J.**)

By consent, these Writ Petitions are taken up for final disposal.

2. The petitioner in W.P.Nos.8108 and 8110 of 2018 would state among other things that lands admeasuring to an extent of 0.20.5 ares and

01.01.0 ares in S.Nos.6 and 9 respectively comprised in Murungai Village, Arakonam Taluk, Vellore District were in his possession right from the year 1947 and by way of succession, the properties succeeded to his daughter-in-law Mohanambal and Logambal. The petitioner would further state that on an earlier occasion, proceedings were initiated under the Tamil Nadu Land Encroachment Act, 1905 [in short “TLE Act”] and it went up to the stage of revision and the Commissioner of Land Administration has remanded the matter once again for fresh consideration and the third respondent, without going through the relevant records and the earlier orders issued under Section 7 of the TLE Act, for which the petitioner has submitted his response, has issued the impugned notices under Section 7 of the TLE Act and challenging the said notices, the present writ petitions are filed.

3. The petitioner in W.P.No.8107 of 2018 is the son of the petitioner in W.P.Nos.8108 and 8110 of 2018 and he would state that the petitioner's wife alone is in possession of the property and he has nothing to do with the same and therefore, the impugned notices are bad in law.

4. The petitioner in W.P.No.8109 of 2018 is also the son of the petitioner in W.P.Nos.8108 and 8110 of 2018 and he has also made the similar contentions.

5. The learned counsel appearing for the petitioners has drawn the attention of this Court to the common typed set of documents and would submit that admittedly, forefathers of the petitioner in W.P.Nos.8108 and 8110 of 2018 were in possession and enjoyment of the property and by way of succession, the petitioner started cultivating the property and at present, his two daughter-in-laws, namely Mohanambal and Logambal are cultivating the said lands and the said lands are classified as “Thoppu Poromboke” and further, in response to Section 7 notice, a detailed representation has been submitted, which has not been taken into account and prays for appropriate orders.

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6. Mr.R.Udhayakumar, learned Additional Government Pleader, who accepts notice on behalf of the respondents 1 to 3 would submit that the petitioners are having effective alternative remedy in the form of appeal

under Section 10 of the TLE Act and therefore, these writ petitions are not maintainable.

7. This Court has considered the rival submissions and also perused the entire materials placed before it.

8. The question whether the petitioners in W.P.Nos.8107 and 8109 of 2018 are in possession or their wives? or the petitioner in W.P.Nos.8108 and 8110 of 2018 is in possession of the properties in question? in the consider opinion of the Court, is a disputed question of fact. That apart, the petitioners are having an effective alternative remedy in the form of appeal under Section 10 of the TLE Act along with a petition for stay under Section 10-B of the said Act.

9. In the light of the above facts and circumstances, this Court, without going into the merits of the claim projected by the petitioners in these writ petitions, permits them to file an appeal under Section 10 of the TLE Act before the first respondent along with a petition for stay under Section 10-B of the TLE Act by enclosing relevant authenticated documents

within a period of three weeks from the date of receipt of a copy of this order and the first respondent, upon receipt of the same, shall entertain the appeal, if the papers are otherwise in order. The first respondent or his delegated official, shall initially take up the stay petition and give disposal on merits and in accordance with law within a period of four weeks thereafter and till such time, the third respondent shall defer further decision in terms of the impugned notices. The first respondent or his delegated official, shall also take up the main appeal itself and give disposal on merits and in accordance with law within a period of twelve weeks from the date of entertainment of the appeal and communicate the decision taken, to the petitioners. It is also made clear that the petitioners, till the disposal of the appeal by the first respondent or his delegated official, shall not create any third party rights in respect of the lands in question and shall not alter its physical features also.

10. These Writ Petitions are disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

[M.S.N., J.] [P.R.M., J.]
05.04.2018

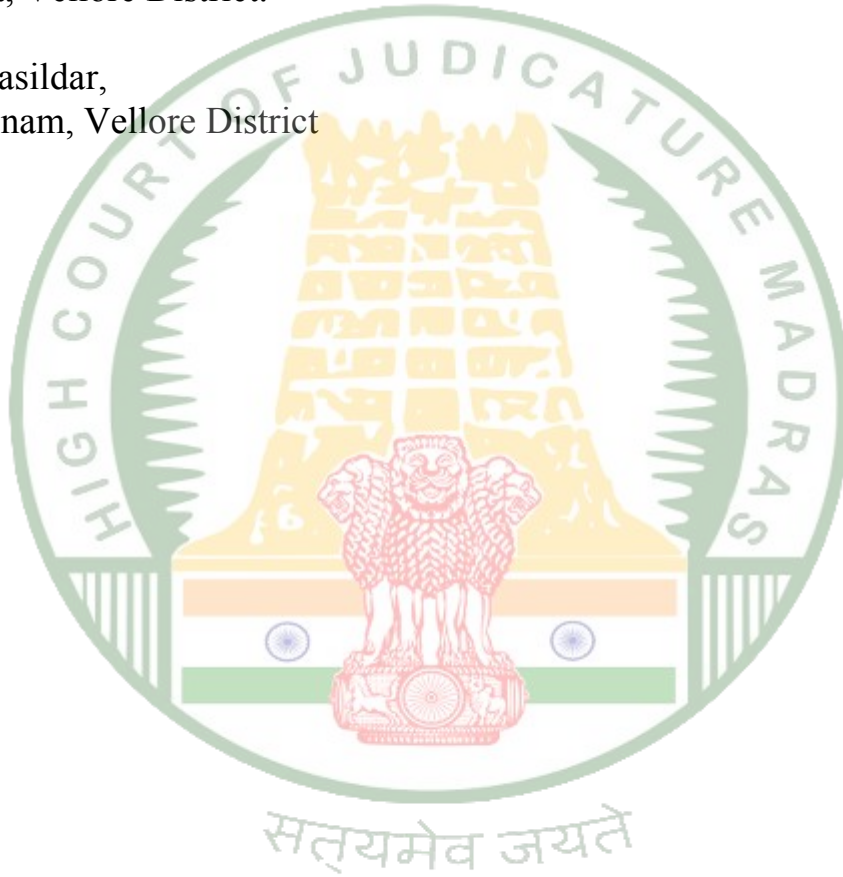
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To

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M.SATHYANARAYANAN, J.,
and
P.RAJAMANICKAM, J.

Jvm



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