

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2018

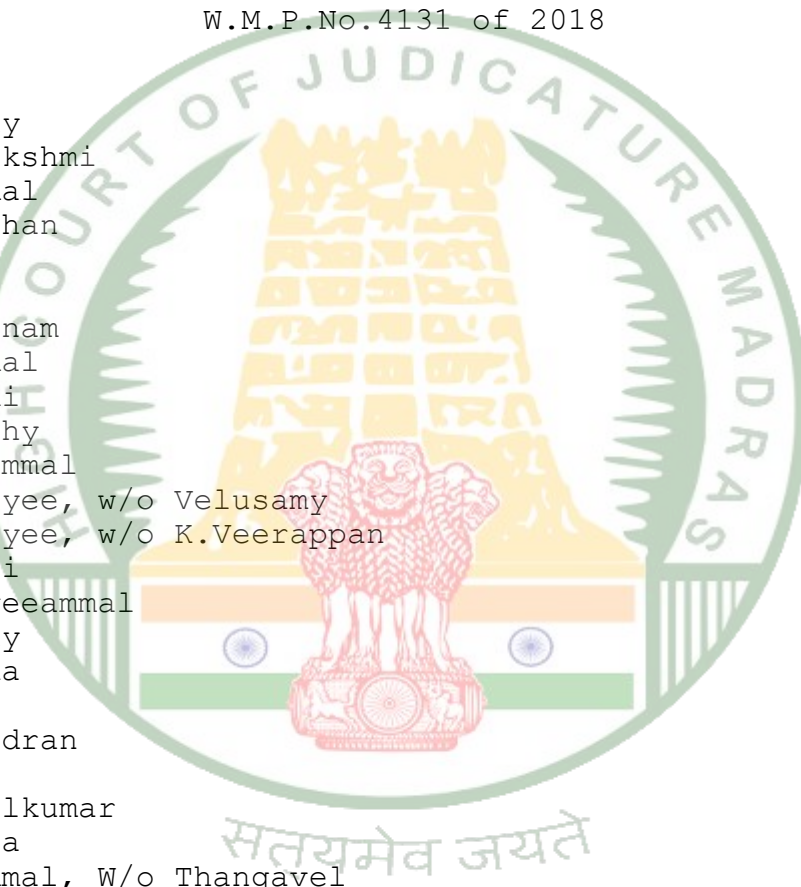
CORAM:

THE HONOURABLE MR.JUSTICE M.VENUGOPAL
AND
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.3375 of 2018
and

W.M.P.No.4131 of 2018

1. S.Parvathy
2. R.Dhanalakshmi
3. M.Ponnammal
4. V.Jaganathan
5. P.Lakshmi
6. T.Lakshmi
7. V.Sampoornam
8. P.Kannammal
9. P.Poongodi
10. G.Pappathy
11. Pazhaniammal
12. V.Karupayee, w/o Velusamy
13. V.Karupayee, w/o K.Veerappan
14. Selvarani
15. P.Muthayeeammal
16. R.Gomathy
17. B.Mallika
18. R.Geetha
19. Ravichandran
20. G.Kumar
21. S.Senthilkumar
22. T.Suseela
23. Palaniammal, W/o Thangavel
24. Pazhaniammal, W/o Manickam
25. Ayammal
26. L.Anandraj
27. G.Nirmala Devi
28. Murugesan
29. S.Jothimani
30. M.Valliammal
31. Maragatham
32. G.Saraswathy
33. Thulasimani
34. Kamalaveni
35. P.Kumar



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36. V.Mani
37. P.Kavery

.. Petitioners

Vs.

1. The District Collector, Erode District, Erode.
2. The District Revenue Officer,
Erode District, Erode.
3. Tahsildar, Modakurichi Taluk, Erode.
4. Revenue Inspector,
Modakurichi Sub-Taluk,
Madakurichi Taluk, Erode District.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the respondents herein to consider individual representations/reply of the petitioners herein, dated 29.01.2018 and joint representations of the petitioners herein along with villagers dated 24.01.2018, 30.01.2018 and 05.02.2018 and to issue house site patta to the petitioners herein for their occupation in the land comprised in S.No.700/4, Ezhumathur B Village, Modakurichi Taluk, Erode District, by dropping proceedings initiated under the provisions of Act 3 of 1905.

For petitioner : Mr.V.P.Sengottuvel
For respondents : Mr.A.N.Thambidurai, Spl.G.P.

ORDER

(The Order of the Court was made by S.Vaidyanathan, J)

The petitioner has come forward with the above Writ Petition praying for issuance of a Writ of Mandamus to direct the respondents herein to consider individual representations/reply of the petitioners herein, dated 29.01.2018 and joint representations of the petitioners herein along with villagers dated 24.01.2018, 30.01.2018 and 05.02.2018 and to issue house site patta to the petitioners herein for their occupation in the land comprised in S.No.700/4, Ezhumathur B Village, Modakurichi Taluk, Erode District, by dropping proceedings initiated under the provisions of Act 3 of 1905.

2. A notice under Section 7 of the Tamil Nadu Land Encroachment Act, has been issued to the petitioners, for which,

reply has also been given. As on date, no orders had been passed. It is represented by Mr.A.N.Thambidurai, learned Special Government Pleader appearing for the respondents that the respondents have no objection for considering the representation of the petitioners and that no orders have been passed under Section 6 of the said Act.

3. This Court cannot direct the respondents to issue patta. This will not come under the purview of this Writ Petition. This Court, under Article 226 of the Constitution of India, cannot exercise the extraordinary writ jurisdiction by directing the authority to issue patta, when the other efficacious remedy is available. It is also represented by the learned Special Government Pleader that alternative places are going to be identified and if the petitioners are otherwise eligible, they will be given the alternative sites, but there cannot be any assurance that all the petitioners will get and some of the petitioners may get and some of the petitioners may not get the same.

4. Taking note of the fact that the reply has been given by the petitioners to the said notice issued under Section 7 of the said Act, the final orders shall be passed by the respondents on the same. Accordingly, the respondents are directed to pass final orders based on the reply given by the petitioners to the said notice issued under Section 7, within a period of four months from the date of receipt of a copy of this order. Such exercise shall be done by the respondents after hearing all the parties including the complainant, if any and thereafter, a decision shall be taken. It is open for the petitioners to raise all factual and legal pleas before the concerned authority. It is also open for the petitioners to produce necessary documentary evidence before the respondents/authorities and the same shall be taken into account by the respondents at the time of passing the final orders, and also by adverting to and meeting out the points raised by the petitioners, and thereafter, a reasoned/speaking order shall be passed on the merits of the matter, by adhering to the principles of natural justice. It is open for the authority concerned to inspect the place in question and thereafter take a final decision in the subject matter in issue. Such inspection shall be conducted for a period of four months or till such final orders under Section 6 of the said Act, are passed by the respondents, whichever is earlier, and till then, the petitioners herein shall not be disturbed from their possession and enjoyment of the properties in question. If the petitioners are aggrieved by the final orders passed under Section 6 of the said Act, it is open for the petitioners to invoke Section 10 or Section 10-A of the said Act and the Writ Petition is not an alternative remedy against such final orders. While invoking Section 10 or Section 10-A,

the appellate authority or the revisional authority is empowered to direct disconnection of the electricity supply to the violated portions of the premises in question therein.

5. With the above observations and directions, the Writ Petition is disposed of. No costs. Consequently, W.M.P. is closed.

Post "for reporting compliance" on 13.07.2018.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

CS

To

1. The District Collector, Erode District, Erode.
2. The District Revenue Officer,
Erode District, Erode.
3. Tahsildar, Modakurichi Taluk, Erode.
4. Revenue Inspector,
Modakurichi Sub-Taluk,
Madakurichi Taluk, Erode District.

Copy To

The Section Officer,
Writ Section, High Court, Madras
(for Reporting Compliance)

+1cc to Mr.V.P.Sengottuvel, Advocate, S.R.No.11554

+1cc to the Government Pleader, S.R.No.12154

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