

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2018

CORAM

THE HON'BLE MR. JUSTICE R.SURESH KUMAR

W.P.No.37686 of 2003
and
W.M.P.No.45787 of 2003

- 1.Kailangiri
- 2.Kittusamy
- 3.Ramathal
- 4.Lakshmi
- 5.Vellangiri
- 6.Nanji Chettiar
- 7.Thangavelu
- 8.Eswari
- 9.Pasupathy

..Petitioners

Vs.

- 1.State of Tamil Nadu rep. By
its Secretary, Revenue Department,
Fort St.George, Chennai-9
- 2.The District Revenue Officer,
Coimbatore
- 3.The District Collector,
Coimbatore
- 4.The Thasildar,
Coimbatore South
Coimbatore

- 5.The Divisional Engineer (South)
Highways, Coimbatore

...Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents to comply with the provisions of Land Encroachment Act by giving notice under sec.7 thereof before any action for eviction is taken against the petitioners premises in Door Numbers (1) Old No.4/40 N, New No.4/169 (2) Old No.4/40 J (3) Old No.4/40 R, New No.4/174 (4) New Door No.4/167 (5) Old No.4/40 H, New Number 4/159 (6) Old No. 4/40 Z, New No.4/158 (7) New

No.4/161 (8) New No.4/162 (9) Old No. 4/40 Y, New No.4/175 & 176 all at 4th ward, Iruttupallam, Mathavarayapuram Panchayat, coimbatore South Taluk, Coimbatore District.

For Petitioners :Ms.M.Chithira Gomathy

For Respondents :Mr.K.Ravikumar
Additional Government Pleader
for R1 to R4

O R D E R

The prayer sought for in this Writ Petition is for issuance of a Writ of Mandamus directing the respondents to comply with the provisions of Land Encroachment Act by giving notice under section 7 thereof before any action for eviction is taken against the petitioners premises in Door Numbers (1) Old No.4/40 N, New No.4/169 (2) Old No.4/40 J (3) Old No.4/40 R, New No.4/174 (4) New Door No.4/167 (5) Old No.4/40 H, New Number 4/159 (6) Old No. 4/40 Z, New No.4/158 (7) New No.4/161 (8) New No.4/162 (9) Old No. 4/40 Y, New No.4/175 & 176 all at 4th ward, Iruttupallam, Mathavarayapuram Panchayat, Coimbatore South Taluk, Coimbatore District.

2. It is the case of the petitioners that they are residing at various door Nos mentioned above in Iruttupallam, Mathavarayapuram, Coimbatore, South Taluk, Coimbatore District. Though it was the claim of the petitioners that the said property is their absolute property, the stand of the respondents is that they are the Government Poromoboke lands and they wanted to take action for eviction against all these petitioners. Apprehending such action from the respondents, the petitioners have approached this Court with the aforesaid prayer.

3. The very prayer sought for by the petitioners themselves is that before taking any action against the petitioners towards evicting them, the procedures contemplated under the Land Encroachment Act have to be followed by the respondents. In other words, the respondents shall give a notice under Section 7 of the said Act before taking any coercive action against the petitioners. Since the grievance of the petitioners appear to be so innocuous, as they only wanted the respondents to follow the procedures established under the provisions of the Land Encroachment Act, the said plea, in the opinion of this Court, can be considered.

4. At the same time, Mr.K.Ravikumar, the learned Additional Government Pleader appearing for the respondents would submit that since the Writ Petition has been filed in the year 2003, by this time, these petitioners would have been evicted.

5. However, there has been no proof to show that these petitioners have been evicted and that also at the same time, there is no proof to show that still the petitioners have been residing in the said lands.

6. Be that as it may. In order to give a quietus to the said issue, this Court is inclined to pass the following order.

"That the respondents are hereby directed to follow the procedure contemplated under the Land Encroachment Act by issuing notice to the petitioners under Section 7 of the said Act and thereafter, can proceed to evict the petitioners, if the petitioners were not already vacated."

7. The aforesaid exercise shall be undertaken by the respondents within a period of one month from the date of receipt of a copy of this order.

8. With these directions, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS vi)

//True Copy//

Sub Assistant Registrar

srn/rst

To

1.The Secretary
State of Tamil Nadu,
Revenue Department,
Fort St.George, Chennai-9

2.The District Revenue Officer,
Coimbatore

3.The District Collector,
Coimbatore

4.The Thasildar,
Coimbatore South
Coimbatore

5.The Divisional Engineer (South)
Highways, Coimbatore.

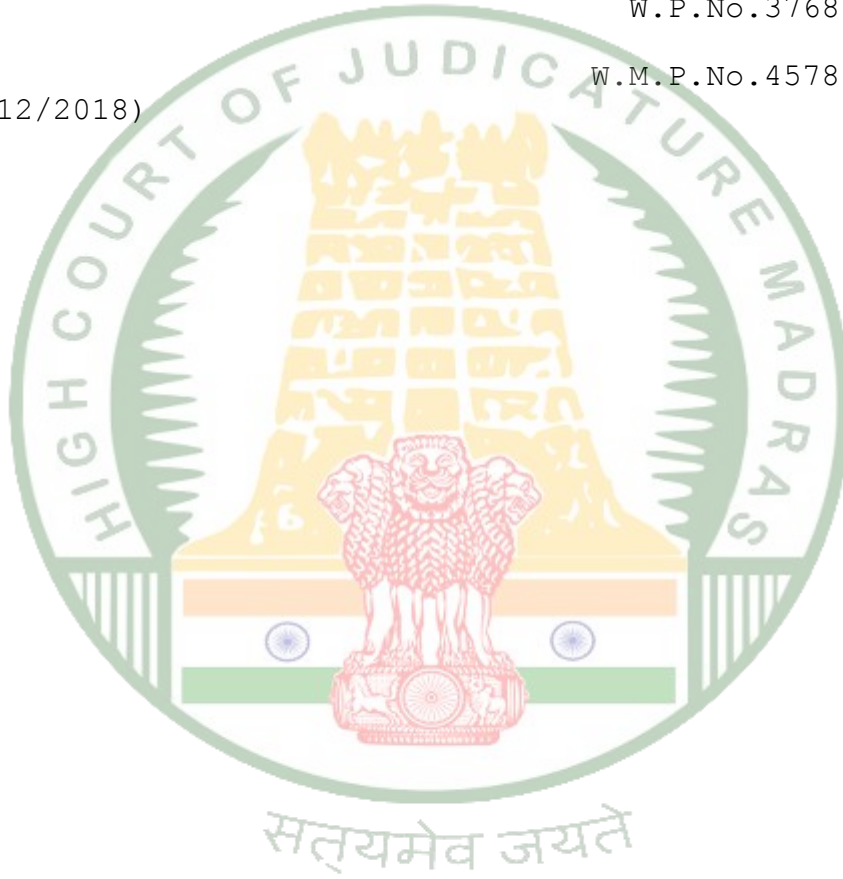
+1 CC TO GOVERNMENT PLEADER SR.NO.75891

+1cc to Mr. A.Sankar Subramanian, Advocate SR.No.74753

W.P.No.37686 of 2003
and

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ASK(11/12/2018)



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