

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2018

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.19643 to 19645 of 2004

and

W.M.P.Nos.23603 to 23605 of 2004

M.Nagarani ..Petitioner in W.P.No.19643/2004
K.Thozhanenjan ..Petitioner in W.P.No.19644/2004
A.Jayalakshmi ..Petitioner in W.P.No.19645/2004

vs

1.The District Collector
Vellore, Vellore District.

2.The Commissioner, Vellore Municipality
Vellore.

..Respondents in all W.Ps

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to Na.Ka.No.15982/96/F3 dated 02.06.2004 from the file of the 2nd respondent and to quash the same and forbearing the 2nd respondent from forcibly evicting the petitioners from their house bearing New Door Nos.64/1G, 64/1F, C-77 in Idascudder Road, Kaithapattarai, Vellore without providing reasonable compensation and without providing alternative house sites to the petitioners.

For Petitioners : Mr.P.Ganapathy
for Mr.M.P.Jayaprakash(in all W.Ps)

For Respondents : Mr.G.B.Rajesh, GA for R1(in all W.Ps)
Mr.K.R.Thamizhmani for R2(in all W.Ps)

C O M M O N O R D E R

The notices issued under the District Municipalities Act 1920, more specifically under Section 182 and 362 issued by the respondents in proceedings dated 02.06.2004 is under challenge in these writ petitions.

2.The impugned notices state that the land under the possession of the writ petitioners is the land belongs to the Municipality and in order to evict the encroachers of the Municipality land, notices were issued on 01.04.2002 under Section 362 and the same was published by way of 'lhk; lhk;' in that village. In spite of the notice and information provided to the encroachers, they have not removed the encroachment. Thus, notices were again issued in proceedings dated 02.06.2004, directing the writ petitioners to vacate the land belongs to the Municipality within a period of seven days, failing which further actions would be initiated to evict all the encroachers.

3.Instead of submitting the explanations/objections, notice issued under the District Municipalities Act, the writ petitioners have chosen to file the present writ petitions.

4.Even in the affidavit filed in support of the writ petitions, the petitioners admit that the land in question is a Poramboke land and situated in Survey No.1200. Further, it is admitted that the said land is vested with the Vellore Municipality. The only plea set out in the affidavit is that the petitioners are poor persons and therefore, they must be allowed to continue in the encroached land.

5.This apart, it is stated that the petitioners are in possession and enjoyment of the land belongs to the Municipality for a considerable length of time and on that ground also, they must be allowed to continue in the said land.

6.This Court is of an opinion that Welfare State has to provide schemes for providing free house sites to the landless poor people. Undoubtedly, such schemes are provided and the same is to be implemented uniformly without any discrimination. All the similarly placed persons are to be considered, while implementing such welfare schemes. If the petitioners are landless poor persons, then the petitioners are also entitled to submit an application for grant of free house sites or house for the purpose of their living. Contrarily, the persons cannot be allowed to encroach the Government land or the land belongs to the Municipality in an illegal manner by taking the law into their land and continue to be in possession for years together. Such a practice of encroaching the public lands can never be encouraged by the Courts as well as by the State. Whenever a welfare State finds that large number of landless people need to be accommodated, then the Government has to formulate a scheme and accordingly allot houses to the landless poor people by considering the penurious circumstances and terms and circumstances to be stipulated under the scheme.

7.This being the constitutional scheme to be adopted and implemented by the State. State cannot allow such encroachers to

continue in the public lands. In the event of allowing the encroachments to a larger extent, the constitutional right of all other citizen are infringed. Every citizen has got a right to use the public land and such public lands are to be utilized for the public welfare and in the interest of public at large.

8.This being the constitutional principles to be followed, the "State' is bound to evict all encroachers and utilize the land for the public purposes.

9.This Court is not opposing the policy of introducing allotment of free house sites or flats to the houseless poor people. However, such schemes are to be implemented strictly and in accordance with the provisions and by considering the cases of all similarly situated persons in a uniform manner.

10.In the present case on hand, the writ petitioners themselves admitted that the land belongs to Vellore Municipality and they are the encroachers. This being the factum, the writ petitioners have not established any ground for the purpose of granting the relief as such sought for in the present writ petitions. The respondents are also directed to evict all such encroachers in and around that locality including the petitioners and utilize the land for the welfare of the public utility.

11.With these observations, all the writ petitions stand dismissed. However, there shall b no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The District Collector
Vellore, Vellore District.

2.The Commissioner, Vellore Municipality
Vellore.

+lcc to the Government Pleader, S.R.No. 87889

W.P.Nos.19643 to 19645 of 2004

SS(CO)
GN(21/01/2019)