

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.12.2018

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.Nos.29277 to 29282 of 2005

and

W.M.P.Nos.32033 to 32038 of 2005

Mr.J.K.Subash .. Petitioner in 29277 of 2005
Mrs.M.Indirani .. Petitioner in 29278 of 2005
Mrs.K.Kalavathy .. Petitioner in 29279 of 2005
Mr.K.Chinnapaiyan .. Petitioner in 29280 of 2005
Mrs.P.Rajammal .. Petitioner in 29281 of 2005
Mr.I.C.X.Dominic .. Petitioner in 29282 of 2005

..Vs..

- 1.The Tahsildar,
Ambattur Taluk,
Ambattur, Chennai - 600 054.
- 2.The Collector,
Office of the Collector,
Thiruvallur District,
Tamil Nadu.
- 3.The Government of Tamil Nadu,
Rep.by its Secretary, Department of Revenue,
Fort St.George,
Chennai - 600 009.
- 4.Mr.P.Raja,
Panchayat President,
Kathirvedu Panchayat,
Chennai - 600 066.

.. Respondents in all WPs.

COMMON PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the proceedings relating to the impugned order of the first respondent, the Tahsildar, Ambattur, issued on 01.09.2005 and quash the same and direct the respondents 1 to

3 herein to consider assigning the premises in the occupation of the petitioner.

For Petitioners : Mr.P.Chandra Sekaran in all WPs

For Respondents :Mrs.P.Janaki
Additional Government Pleader
for R1 to R3 in all WPs.

Mr.S.M.Gowthaman for R4 in all WPs.

COMMON ORDER

The notice issued under the Provisions of the Tamil Nadu Land Encroachment Act, 1905 is under challenge in the present writ petitions.

2. The very relief sought for in the present writ petitions are to quash the notice as well as direct the respondents 1 to 3 herein to consider assigning the premises in the occupation of the petitioners.

3. This Court is of an opinion that the writ petitioners are claiming assignment of the Government land and they are in occupation of the Government lands unauthorisedly. In other words, the petitioners are encroachers and utilising the Government lands for their personal usage. The respondents issued a notice under the Provisions of the Encroachment Act for evicting the writ petitioners.

4. This Court is of an opinion that the petitioners themselves seeks the relief to grant assignment. Assignment or allotment can never be claim as a matter of right. Even assignment or allotment of the Government lands can be provided by the state by formulating the scheme uniformly and considering all the eligible and similarly placed persons. In other words, the state is empowered to implement certain welfare schemes by providing the free house sites to the land less poor people. However, all such schemes ought to be implemented under the constitutional schemes and without causing any discrimination.

5. In respect of the encroachers, there cannot be any leniency or misplaced sympathy. The petitioners are encroachers and in unlawful occupation of the Government lands. Thus, the notice issued under the Provisions of the Encroachment Act is in accord with the constitute and there is no infirmity as such. All public lands are to be utilised for the welfare of the public and therefore, all the encroachments in respect of the water bodies, water resources and poramboke lands are to be

evicted and all such lands are to be utilised for the welfare of the public at large and for the implementation of the Government welfare schemes. This being the principles to be followed and this being the mandate of the constitution, the State Authorities are bound to follow the Law for the purpose of maintaining the public properties and lands.

6. In view of the matter the respondents are directed to initiate all appropriate actions to evict all such encroachers in the Government lands in that locality. The respondents 1 and 2 are bound to initiate action by following the procedures contemplated under the Encroachment Act.

7. With these observations, the present writ petitions stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed. No Costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Pns

To

1.The Tahsildar,
Ambattur Taluk,
Ambattur,
Chennai - 600 054.

2.The Collector,
Office of the Collector,
Thiruvallur District,
Tamil Nadu.

3.The Secretary, Department of Revenue,
Fort St.George,
Chennai - 600 009.

+1cc to Mr.K.Suddalai Kannu, Advocate, S.R.No. 84659
+1cc to the Government Pleader, S.R.No. 84435

W.P.Nos.29277 to 29282 of 2005

NMI (CO)
GN(09/01/2019)