

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 20.03.2018

Coram

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

W.P.Nos.4729 to 4733 of 2018
and
W.M.P.Nos.5840 to 5844 of 2018

S.Pachiyappan .. Petitioner in W.P.No.4729 of 2018
A.Karthikeyan .. Petitioner in W.P.No.4730 of 2018
A.Sankar .. Petitioner in W.P.No.4731 of 2018
S.Ramakrishnan .. Petitioner in W.P.No.4732 of 2018
R.Amirthalingam .. Petitioner in W.P.No.4733 of 2018

Vs.

1. The District Collector,
Cuddalore District
2. The Sub-Collector,
Cuddalore
3. The Assistant Engineer
Public Works Department (PWD)
& Water Resource Department (WRD)
Cuddalore - 1. .. Respondents in all the
Petitions

Prayer in all the Petitions: Writ Petitions filed under Article 226 of Constitution of India for issuance of a Writ of Mandamus directing the Respondents to consider the Petitioners' representation cum objection dated 28.10.2016 and due inspection of the Petitioners' area Kamaraj Nagar, Vanniarpalayam, Cuddalore.

For Petitioners : Mr.R.Palanisamy
For Respondents : Mr.R.Udhayakumar
Additional Government Pleader

C O M M O N O R D E R

[Common Order of the Court was made by M.VENUGOPAL, J.]

Since the issue involved in these Writ Petitions are one and the same, they are taken up together and a common order is being passed. Heard the Learned Counsel for the Petitioners and the Learned Additional Government Pleader for the Respondents.

2. According to the Petitioners, they are residing at Kamaraj Nagar, Vanniarpalayam, Cuddalore District for the past more than 30 years for generations. They are also paying land tax to the Government for the place in question and the Government also had issued tax receipt and 'C' Patta to them. The Petitioners have applied for ration card and after due inspection of their residence, the Government officials issued them family ration card. The Electricity Department also gave electricity connection to the Petitioners' house at Kamaraj nagar and later, they had applied for other Government records like Adhaar Card, Voter ID etc.,

3. The Learned Counsel for the Petitioners pointed out that the aforesaid records and other revenue records were considered and their residential area was recognised. The Government, by considering their area as residential area had identified as Ward No.17 for election purpose. The 3rd Respondent, all of a sudden, on 24.10.2016 had issued Form - III Notice directing the Petitioners to vacate from the place. Also that, the Petitioners have sought copy of A-Register from the concerned office, but, they failed to furnish the said copy. The Petitioners have also given an objection / representation on 28.10.2016 along with other people of their area, seeking to consider the plea that they are residing in that place for several years.

4. The main grievance of the Petitioners is that all of a sudden, on 09.02.2018, the Respondents made an auto announcement in their area alerting to vacate the place or else soon they will demolish their houses. The Petitioners were informed that P.W.D is going to strength the Gadilam River shore by laying big mud barrier and they shown the route of the barrier on the shore. On a bare sight, it can be clearly seen that the mud barrier directly struck into another third party layout, after that there is no way to continue the mud barrier.

5. The principal stand taken on behalf of the Petitioners is that the Petitioners are not residing in the shore of the Gadilam River, but there is third party land between Kamaraj Nagar and the Gadilam River. The Respondents also recently given patta to the third party and since the Petitioners are leading

their life under poverty and facing day today life for livelihood and considering the fact that the Petitioners family are residing for more than four decades without any interruptions, the Petitioners have filed the present Writ Petitions seeking for issuance of an order by this Court in directing the Respondents to take preventive measure.

6. Per contra, it is the submission of the Learned Additional Government Pleader appearing for Respondents that the 3rd Respondent had taken all efforts by taking eviction proceedings and as per direction of this Court in W.P.No.26722 of 2013, on application of Tamilnadu Protection of Tanks and Eviction of Encroachment Rules, 2007 (Tamilnadu Act 8 of 2007), Form-III Notice was served upon the Petitioners calling upon them why they should not be evicted. Keeping in view of the procedure outlined in Tamilnadu Protection of Tanks and Eviction of Encroachment Rule 2007 (Tamilnadu Act 8 of 2007) and having noticed that the Petitioners are unauthorisedly occupying the river bank and such act caused inconvenience to form precautionary flood works along Gadilem River on the portion of which bearing Ward No.6, Block No.74, T.S.No.3195 in the portion of left bank in Gadilem River in Cuddalore Town with a total length about of 500 M width of 20-50 M, which are under unauthorised occupation by the said Petitioners and for eviction of said premises, necessary Form - I Notice, Form-II Notice and Form - III, Notice were duly served upon the Petitioners by following due process of Law.

8. Considering the fact that the Petitioners and others are occupying the river bank and such an act will undoubtedly cause inconvenience to form precautionary flood works along Gadilam river on the portion of Ward No.6, Block No.74, T.S.No.3195 in the portion of left bank in Gadilam river in Cuddalore Town with a total length about of 500 M width of 20-50 M, which are under unauthorised occupation by the said Petitioners and others, this Court comes to an irresistible and inevitable conclusion that the action of the Authorities in issuing Form I, II and III, Notices to the Petitioners and others does not suffer from any material irregularity or patent illegality in the eye of Law. Viewed in that perspective, the relief sought by the Petitioners, in the considered opinion of this Court, cannot be acceded to, in the interest of justice.

Before parting with the case, the Learned Additional Government Pleader for Respondents 1 to 3 submits that the request of the Petitioners seeking an alternate place to be provided to them is pending with the RDO, Cuddalore and the same will be considered in the sympathetic manner. However, the Learned Counsel for the Petitioners prays for a reasonable time to vacate from the river bank, in which they occupy, as

encroachers. Taking into account of the fact that the Petitioners' children are studying in the school and exams are going on, this Court while taking a lenient, liberal, purposeful and pragmatic view, grants time till 08.06.2018. Thereafter, the Petitioners shall not squat or remain in the property in question and if they continue to occupy the place, inspite of the expiry of the deadline determined by this Court, then, it is for the Respondents 1 to 3 to seek the assistance of Police Personnel to evict the Petitioners and to remove the Petitioners' encroachment.

In fine, the Writ Petitions are dismissed. Consequently, connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

ssd

To

1. The District Collector,
Cuddalore District
2. The Sub-Collector,
Cuddalore
3. The Assistant Engineer
Public Works Department (PWD)
& Water Resource Department (WRD)
Cuddalore - 1.

+1cc to the Government Pleader, S.R.No. 21413

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and

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TR(05/04/2018)

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