

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 22.03.2018

Coram

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

W.P.No.4769 of 2018 and
W.M.P.No.5898 of 2018

Lakshmi .. Petitioner

Vs.

1. The Tahsildar,
Poonamallee Taluk,
Thiruvallur District
2. The District Collector,
Thiruvallur District .. Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Mandamus forbearing the 1st Respondent from forcefully evicting or demolishing the Schedule Petition mentioned property without due process of Law.

Schedule Property

The House Property Situated at No.107, Bajanai Koil Street, Nazarath pettai, Chennai-123.

For Petitioner : Ms.G.Uma Maheswari
For Respondents : Ms.M.Lalitha
Government Advocate

O R D E R

[Order of the Court was made by S.VAIDYANATHAN, J.]

The petitioner has come forward with the aforesaid prayer stating that the 1st Respondent shall not evict or demolish the schedule property without due process of Law.

2. According to the petitioner, she has not encroached any property, more particularly, Survey Nos.27/2 and 27/3. Further, there is no road or Mayanam and the Mayanam is situated elsewhere. However, no notice has been issued to her.

3. A status report has been filed on behalf of the respondents stating that the petitioner has encroached 'Mayanam', which is mainly used for

transportation. The payment of electricity charges, and local body house tax were obtained without No Objection Certificate from the Revenue Department. It is further stated that since the land in question is Pathai and Mayanam, patta was not issued to the petitioner and the encroachers were not given any alternative place.

4. Heard the learned counsel on either side and perused the documents placed on record.

5. A perusal of the notice dated 19.03.2018 issued by the Revenue Inspector, Thirumazhisai under Section 7 of the Tamilnadu Land Encroachment Act, 1905 would make it very clear that notice to vacate from the property in question was issued to the petitioner on 19.03.2018 and the same has been served on her only on 20.03.2018.

6. Since it is only a notice, which has been issued subsequent to the filing of the Writ Petition, this Court is of the view that the Petitioner shall file a reply within a period of 15 days from the date of receipt of the Notice, namely, 20.03.2018 and after hearing the petitioner and other persons, who are likely to be affected including the complainant, the said authority shall pass orders under Section 6 of the Tamilnadu Land Encroachment Act, 1905. The concerned authority is directed to complete the process within a period of 10 weeks from the date of receipt of a copy of this order, till expiry of ten weeks, the petitioner shall not be disturbed.

7. It is made quite clear that while disposing of the objection of the Petitioner, the principles laid down in W.P.No.3546 of 2018 dated 19.02.2018 and W.P.No.21239 of 2005 etc., batch dated 18.12.2017 shall be followed by the Authorities. Also that, the request of the Petitioner that she must be given alternative site and that the other persons, who are similarly placed persons were given alternative place, cannot be gone into, as the same is pre-mature. If no reply is filed or the petitioner refuses to participate in the enquiry, recording the same, the orders can be passed by the Authority. If on enquiry the Authorities come to the conclusion that the petitioner or others are encroachers, the electricity supply shall be disconnected forthwith.

In view of the aforesaid observations, the Writ Petition stands disposed of. Consequently, connected Miscellaneous Petition is closed. No costs.

Speak

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

ssd

To

1.The District Collector, Thiruvallur District

2.The Tahsildar, Poonamallee Taluk,
Thiruvallur District.

3. The Chairman, TNEB/TANGEDCO,
Chennai - 2.

+1cc to Mr.S.Veeraraghavan, Advocate Sr.No.21746

+1cc to Government Pleader SR.No.22333

CA(CO)
sm:17.4.2018

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