

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 02.01.2018

Coram

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

W.P.No.32582 of 2017
and
W.M.P.No.35908 of 2017

1. K.Aravind Kumar
2. Kanthilal C.Doshi
3. K.Jithendra Kumar ... Petitioners

Vs.

1.The District Collector,
Thiruvallur District, Thiruvallur
2. The Revenue Divisional Officer,
Ponneri Taluk, Thiruvallur District
3.The Tahsildar,
Ponneri Taluk, Thiruvallur District
4. The Assistant Executive Engineer
Public Works Department Office,
Kosasthalai River Sub division,
Red hills, Thiruvallur District. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records relating to the order dated 02.12.2017 in Na.Ka.No.33/2016/A1 of the 3rd Respondent herein and quash the same.

For Petitioners : Ms.A.L.Gandhimathi
For Respondents : Mr.A.N.Thambidurai
Special Government Pleader

O R D E R

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

The Petitioners have come forward with this Writ Petition challenging the internal communication dated 02.12.2017 between the 4th and 3rd Respondents and the same contains the statement of

area, which were encroached.

2. According to the Petitioners, 1st Petitioner is the absolute owner of the lands to an extent of 0.18 cents and 0.50 cents comprised in Survey Nos.84/1 and 84/2, Padianallore Village, Ponneri Taluk, Thiruvallur district and the same was registered under sale deeds dated 30.07.2004. Subsequently, 0.28 cents in Survey No.84/3 belongs to the 2nd Petitioner and the same was registered through a sale deed dated 26.12.2012 and 0.18 ½ cents in Survey No.84/7 belongs to the 3rd Petitioner. Since the date of purchase, the Petitioners are in possession and enjoyment of the said properties. The Petitioners came to understand that the 3rd Respondent had pasted an order dated 02.12.2017 alleging that PWD Tank situated in Survey No.82, Padianallore Village, Ponneri Taluk, Thiruvallur District was inspected by the 1st Respondent and it was seen that the tank bunds of the Yeri has been occupied by several encroachers and hence the District Collector, Thiruvallur / 1st Respondent had called upon the 3rd Respondent to inspect and find out the encroachments and remove the same under the Tamilnadu Protection of Tanks and Removal of Encroachments Act 8 of 2007, by serving notice upon the encroachers. In the said order dated 02.12.2017, list of survey numbers in which the eviction has to be carried out was also shown and the Petitioners' property finds place in the list. Apprehending eviction, left with no other option, the Petitioners have come to this Court by way of this Writ Petition.

3. Heard the Learned Counsel for the Petitioners and the Learned Special Government Pleader for the Respondents and perused the documents available on record.

4. A careful perusal of the Impugned Order dated 02.12.2017 would show that it is the internal communication and the same has not even communicated to the Petitioner. The Petitioner, based on the said internal communication has come to this Court, which cannot be accepted. As rightly pointed out by the Learned Special Government Pleader for the Respondents, after issuing Form I under the Tamilnadu Protection of Tanks & Eviction of Encroachment Rules, 2007, (which contains the statement of area encroached) survey will be conducted and after conducting survey, Notice, showing the Index Map of Tank and Boundaries will be issued under Form II. Thereafter, Form III, another Notice to Order for Removal of Encroachment will be issued setting out the particulars. Now, in the present case, the Petitioner has approached this Court, challenging the internal communication, which is a still born child. Till the final notice under Form III is issued, the Petitioners have no locus to approach this Court.

In view of the above, without prejudice to the rights of the parties, this Writ Petition stands dismissed, as the same is pre-mature. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS V)

//True copy//

Sub Assistant Registrar

ssd

To

- 1.The District Collector,
Thiruvallur District, Thiruvallur
2. The Revenue Divisional Officer,
Ponneri Taluk, Thiruvallur District
- 3.The Tahsildar,
Ponneri Taluk, Thiruvallur District
4. The Assistant Executive Engineer
Public Works Department Office,
Kosasthalai River Sub division,
Red hills, Thiruvallur District.

+1cc to Mr.A.L.Gandhimathi, Advocate SR.No.154
+1cc to Government Pleader SR.No.215

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SSI (CO)
GN(29/01/2018)

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