

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:02.04.2018

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE P.RAJAMANICKAM

W.P.No.32613/2017 & WMP.Nos.35945, 35946/2017 & 9483/2018

Sri Shanmuga Nagar Welfare Association
rep.by its President Mr.P.Dakshinamurthy
Office at No.1, Sri Shnmuga Nagar
92, Noombal Villge, Madhiravedu,
Thiruverkadu, Chennai-77. ... Petitioner

Vs

1.The District Collector
Tiruvallur District,
Tiruvallur.

2.The Revenue Divisional Officer
cum Sub-Collector,
Ponneri Division, Ponneri,
Tiruvallur District.

3.The Tahsildar
Maduravoyal Taluk
Tiruvallur District.

4.The Executive Engineer
Public Works Department
Alandur, Chennai 600 016.

5.The Commissioner
Tiruverkadu Municipality
Tiruverkadu, Chennai.

6.The Assistant Engineer
CEDC/North, TANGEDCO
Velappanchavadi
Tiruverkadu, Chennai.

.. Respondents

***RR5 and 6 suo motu impleaded vide order dated 14.02.2018.

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorarified mandamus calling for the records relating to the impugned order dated 05.01.2006 in Ref.No.9760/2005/A1 allegedly passed by the 2nd respondent and served on the petitioner only on 24.11.2012 and quash the same and consequently, forbear the respondents from initiating eviction

proceedings against the members of the petitioner Association from the residential colony known as Sri Shanmuga Nagar comprised in Survey No.1 of 92, Noombal Village, Madhiravedu, Ambattur Taluk, presently Maduravoyal Taluk, Tiruvallur District covered by patta No.494, granted by the revenue department and consequently, forbearing the respondents from in any manner interfering with the absolute possession and enjoyment of the said lands without any acquisition proceedings in accordance with law and paying compensation.

For Petitioner : Mr.S.Thankasivan
For RR 1 to 4 : Mr.C.Manishankar, AAG
assisted by
Mr.A.N.Thambidurai, Spl.GP
For R5 : Mr.K.Mohandoss
For R6 : Mr.P.R.Dhilipkumar

ORDER

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

By consent, the writ petition is taken up for final disposal. Mr.C.Manishankar, learned Additional Advocate General assisted by Mr.A.N.Thambidurai, learned Special Government Pleader appears for the respondents 1 to 4 ; Mr.K.Mohandoss, learned Standing counsel appears for the 5th respondent and Mr.P.R.Dhilipkumar, learned standing counsel appears for the 6th respondent.

2 The petitioner claims to be the President of Shri Shanmuga Nagar Welfare Association having office at Door No.1, Sri Shanmuga Nagar, 92, Noombal Village, Madhiravedu Taluk, Tiruverkadu, Chennai and according to him, the petitioner-Association was formed by the owners of the plots and residential houses known as "Sri Shanmuga Nagar" situate in an extent of 4.25 Acres comprised in S.No.1/1, Old S.No.1 of the said village. The petitioner would state that originally, through a registered Sale Deed bearing Doc.No.4080/1920, registered on the file of the Registrar, Madras and Chengalpattu, one Gregory Sam, in his capacity as the Executor of the Will of Ms.Amelia Sam, who was in possession of large extent of land measuring 1103 canies, 230 grounds and 226 sq.ft., [approximately 1380 Acres] in Noombal and Puliampet villages, sold larger extent of lands in favour of one Mr.T.S.Ramaswamy Iyer, son of Thiru.T.Subramania Iyer and as per various legal proceedings including the judgment dated 20.12.1928 in Appeal No.28/1926, the land has been classified as "Estate" within the meaning of section 3[2] of the Madras Act XVIII of 1936. Thereafter, proceedings were initiated before the Estate Abolition Tribunal, Vellore and subsequently, patta has been granted in favour of Mr.T.S.Lakshminarayanan

and his successors in respect of the said Estate Lands and their legal heirs had executed the following Sale Deeds:-

- (1) Sale Deed registered as Document No.1409 of 1972 executed by T.S.Sakaranarayana Iyer son of Lakshmi Narayana Iyer conveying one acre of land in Survey No.1, Noombal Village to and in favour of Mr.A.Ramados ;
- (2) Sale Deed registered as Document No.1502 of 1972 executed by T.S.Sakaranarayana Iyer son of Lakshmi Narayana Iyer in favour of Munusamy ;
- (3) Sale Deed registered as Document No.1409 of 1972 executed by T.S.Sakaranarayana Iyer son of Lakshmi Narayana Iyer conveying 82 cents of land in S.No.1, Noombal Village to and in favour of one Ramachandran, son of Kistappa Naicker ;
- (4) Sale Deed registered as Document No.1409 of 1972 executed by T.S.Sakaranarayana Iyer in favour of Murugesha Naicker registered as Doc.No.1792/1972.
- (5) Settlement Deed registered as Document No.2776 of 1975 executed by Annammal in favour of Selvamani. The said person has executed a general power of attorney in favour of one Kupppammal wife of P.Ramamurthy for settling the said lands.

3 It is the claim of the petitioner-Association that its members, in turn, had purchased their respective plots from them as early as in the year 1990 and by investing their lives and savings, they have put up residential houses. The grievance now expressed by the petitioner is that all of a sudden, steps are being taken to dispossess them on the ground that the land is classified as "Coovum River" and on enquiry, they came to know that the 2nd respondent, vide proceedings dated 05.01.2006 in Ref.No.Na.9760/2005/A1, has cancelled the patta No.494 in respect of one Ranga Naidu and 85 others and re-classified the land as "Coovum River" and no proper, sufficient and reasonable opportunity has been given to the members of the petitioner-Association to put forth their stand and admittedly, though the members of the petitioner-Association are in possession of the lands in question and put up superstructures right from the year 1990 onwards, they have not been put on notice and hence, prays for interference.

4 Per contra, Mr.C.Manishankar, learned Additional Advocate General assisted by Mr.A.N.Thambidurai, learned Special Government Pleader appearing for respondents 1 to 4 has drawn the attention of this Court to the counter affidavit of the 3rd respondent and would submit that the Government of Tamil Nadu is implementing the Integrated Coovum River ECO Restoration Project under the aegis of the Chennai River Restoration Trust [CRRT], as per the order of the National Green Tribunal, Southern Zone, Chennai and the administration sanction for implementation of the scheme has been sanctioned by the Government vide G.O.Ms.No.9, Municipal Administration and Water Supply [MCL] Department, dated 13.01.2015 and the

main work is being carried out by desilting and widening of the river ; removal of solid waste, review channel improvement, river front development works, Resettlement and Rehabilitation of project affected families on account of eviction of encroachments and suitable alternate accommodation is also provided by the Tamil Nadu Slum Clearance Board [TNSCB] by accommodating them in the tenements constructed by them and so far, TNSCB had resettled 8710 families from the banks of Adayar River [4134 families] and Coovum River [4576 families] and that apart, shifting allowance of Rs.5000/- per family ; subsistence allowance of Rs.30,000/- [Rs.2500/- per month for 1 year per family] ;

beneficiary contribution at the rate of 10% of the housing cost which works out to Rs.65,000/- per family ; electricity service connection charges of Rs.2500/- per family ; Community Development Programmes have also been paid/implemented and as such, the members of the petitioner-Association cannot express any grievance and it is also pointed out that during the Mega Flood which took place during December 2015, families living on the banks of the City Rivers, especially, Adyar and Coovum, lost all their belongings and precious human lives too and taking into consideration of the same only, rehabilitation measure is being done and in that process, Coovum River is also sought to be restored to its original serenity and beauty and since it is the Policy Decision of the Government and not actuated with any mala fides or arbitrariness, it cannot be stalled. It is the further submission of the learned Additional Advocate General that the Collector of Tiruvallur District, while cancelling the patta, has given notice to the concerned persons and invited the attention of this Court to the detailed order passed by the said official and submitted that due and proper consideration has been given by appreciating the materials placed and it cannot be found fault and prays for dismissal of the writ petition.

5 This Court heard the submissions of the respective learned Standing counsels appearing for the respondents 5 and 6 and also perused the materials placed before it.

6 The learned counsel for the petitioner, during the course of arguments, has invited the attention of this Court to the bulky typed set which contains documents and according to him, the title of the members to the lands and superstructures in question, are genuine. However, this Court is not inclined to look into the same for the reason that the said issue involves adjudication of disputed questions of fact and this Court, in exercise of its jurisdiction under Article 226 of the Constitution of India, cannot venture into the same.

7 This Court, taking into consideration of the stand of the learned counsel for the petitioner that the 2nd respondent, while passing the impugned order dated 05.01.2006,

cancelling patta, is of the considered view that an opportunity has to be given to the members of the petitioner - Association to put forth their submission in the appeal to be preferred against the said order. This Court has also put a specific question to the learned counsel for the petitioner as to whether all the members of the petitioner - Association has got Planning Permission and had put up the superstructures strictly in accordance with the sanctioned plan and in response to the same, it is the submission of the learned counsel for the petitioner that the members of the petitioner - Association have put up superstructures and subsequently, they went to avail the benefit of section 113-C of the Tamil Nadu Town and Country Planning Act and had also submitted applications in that regard.

8 Be that as it may, this Court, without going into the merits of the claim projected by the petitioner - Association, grants liberty to the members of the petitioner - Association to make a challenge to the impugned order of the 2nd respondent in Ref.No.9760/2005/A1 dated 05.01.2006 by preferring individual appeals before the District Revenue Officer, Tiruvallur, within a period of four weeks from the date of receipt of a copy of this order by enclosing relevant and authenticated documents as to their title and possession in respect of the site/land in their possession as well as the approved plan or in the absence of the same, their applications filed u/s.113-C of the Town and Country Planning Act and the District Revenue Officer, upon receipt of the same, shall entertain the said appeals, if the papers are otherwise in order without putting the question of limitation and thereafter, consider and dispose of the appeals on merits and in accordance with law within a further period of twelve weeks thereafter and communicate the decision taken to the members of the petitioner - Association and it is made clear that the members of the petitioner - Association, till the disposal of the appeals by the District Revenue Officer, Tiruvallur, shall not create any third party rights in respect of the site and superstructures in question and shall not alter the physical features also and both parties are directed to maintain status quo as regards possession as exists today. The 6th respondent is also directed to restore the electricity supply connection to the respective houses of the members of the petitioner - Association subject to their norms, within a period of one week from the date of receipt of a copy of this order.

9 The writ petition stand disposed of with the above direction. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

<https://hcservices.ecourts.gov.in/hcservices/>

Sub Assistant Registrar

To

1.The District Collector
Tiruvallur District,
Tiruvallur.

2.The Revenue Divisional Officer
cum Sub-Collector,
Ponneri Division, Ponneri,
Tiruvallur District.

3.The Tahsildar
Maduravoyal Taluk
Tiruvallur District.

4.The Executive Engineer
Public Works Department
Alandur, Chennai 600 016.

5.The Commissioner
Tiruverkadu Municipality
Tiruverkadu, Chennai.

6.The Assistant Engineer
CEDC/North, TANGEDCO
Velappanchavadi
Tiruverkadu, Chennai.

+1cc to M/s.S.Thankasivam, Advocate Sr.No.24280
+1cc to Government Pleader SR.o.24607

Copy to:The District Revenue Officer,
Tiruvallur District at Tiruvallur

AD(CO)
sm:19.4.2018

सत्यमेव जयते

WP.No.32613/2017

WEB COPY