

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 03.01.2018

Coram

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

W.P.No.32706 of 2017 and
W.M.P.Nos.36022 to 36024 of 2017

1. R.Jamuna
2. R.Padma .. Petitioners

Vs.

1.The Collector,
Kancheepuram District,
Kancheepuram
2. The Tahsildar,
Pallavaram Tahsildar Officer,
Chrompet, Chennai - 600 044
3. The Junior Engineer,
Public Works Department,
Irrigation Section,
Water Resources Organisation,
Padappai - 601 301
4. The Commissioner,
Pallavaram Municipality,
Pallavaram, Chennai ..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 from the 3rd Respondent in respect of the impugned notice in Sl.No.29 dated 07.12.2017 in Form No.III and quash the same.

For Petitioners : Mr.M.Selvam

For Respondents : Mr.A.N.Thambidurai for R1 to R3
Special Government Pleader
Mr.P.Srinivas for R4

O R D E R

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

Heard the Learned Respective Counsel on both sides. No counter is filed on behalf of Respondent Nos.1 to 4. By consent, the main Writ Petition itself is taken up for final disposal.

2. The Writ Petition has been filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records from the 3rd Respondent in respect of an Impugned Notice in Sl.No.29 dated 07.12.2017 in Form No.III and quash the same.

3. According to the Petitioners, they are in possession and enjoyment of the property situated at No.16, 2nd Cross Street, Lakshmi Nagar, Jamin Pallavaram, Tambaram Taluk, Kanchipuram District comprised in Survey No.446/2 to a total extent of 600 Sq.Ft. As a matter of fact, the scheduled mentioned property comprised in Survey No.446/2 is categorized under 'Gramma Natham' and indeed, the 2nd Respondent / Tahsildar, Chrompet, Chennai had issued a Possession Certificate in Oo.Mu.No.1578/97 dated 15.07.1997 and permitted them to obtain bank loan, electricity connection, patta name transfer, building permit etc., based on their possession. They have also built a house in the said land at Survey No.446/2 and secured patta in the said land. Added further, the Special Tahsildar issued a SLR Patta dated 15.04.2001 measuring an extent of 600 Sq.Ft., In fact, the Petitioner had obtained water connection, electricity connection and other facilities in the said land. They are also paying property tax and other dues, till date without default.

4. At this stage, the Learned Counsel for the Petitioners submits that the 3rd Respondent / Junior Engineer, Public Works Department, Water Resources Organisation, Padappai had inspected the lands and they had threatened to demolish the property, which is built at the water reservoir. Soon on 18.11.2017, the 1st Petitioner had addressed a representation to the 2nd Respondent to measure the land and its survey numbers by perusing the documents in Petitioners' possession issued by the Respondents.

5. When that be the aforesaid situation, to the shock and surprise, the 1st Petitioner had received an Impugned Notice in Sl.No.29 dated 07.12.2017 in Form No.III from the 3rd Respondent allegedly stating that she is occupying the portion at Survey No.448/5, i.e., Water Reservoir. In this regard, the clear cut case of the Petitioners is that they are residing at Survey No.446/2 and not occupying any portion at Survey No.448/5. Also that, a representation dated 08.12.2017 was made before the 2nd Respondent and necessary charges were paid to survey the land with reference to property documents. As a matter of fact, the said representation is pending for an enquiry before the 2nd Respondent.

6. In the instant case on hand, the Petitioners have produced a certificate issued by the Village Administrative Office, 21, Z.Pallavaram-II, Chennai - 42, Tambaram Taluk, Kancheepuram District, whereby and whereunder it is stated as under:

"Tambaram Taluk, 21- Jamin Pallavaram Division -

certified as "Grama Natham."

7. A perusal of the Impugned Notice dated 07.12.2017 shows that the notice was issued in respect of the 1st Petitioner in Sl.No.29 of

Lakshmi Nagar, the time limit of 21 days was granted in the aforesaid notice dated 07.12.2017 in Form III [See sub-rule(1) of Rule 6] of Tamilnadu Land Encroachment Act, 1905 and the Petitioners till date, admittedly, have not given their objections / addressed representations to the 3rd Respondent / Junior Engineer, Public Works Department, Irrigation Section, Water Resources Organisation, Padappai. As such, this Court, in the interest of justice, fair play, equity, good conscience and even as a matter of prudence, directs the Petitioners to file their Representation(s) / Objection(s) before the 3rd Respondent for the Impugned Notice dated 07.12.2017 within a period of two weeks from the date of receipt of a copy of this Order. Soon after receipt of representation from the Writ Petitioners, the 3rd Respondent / The Junior Engineer, Public Works Department, Irrigation Section, Water Resources Organisation, Padappai is directed to look into the said representation(s) and if he finds any substance in it, then, he is directed to provide an adequate opportunity of hearing to the Petitioners and other relevant / concerned parties, if any, by issuing necessary notices and to pass a reasoned speaking order on merits in the subject matter in issue in qualitative and quantitative terms (of course, ascribing necessary reasons thereto, by adhering to the 'Principles of Natural Justice') within a period of two weeks thereafter.

8. However, this Court grants liberty to the Petitioners and others concerned, if any, to raise all factual and legal pleas to let in any oral and documentary evidence before the 3rd Respondent, if they so desire / advised. Till final orders are passed in the subject matter in issue, it is abundantly made clear that the Petitioners shall not be evicted from the subject land.

With the aforesaid observations and directions, the Writ Petition stands disposed of. Consequently, connected Miscellaneous Petitions are closed. No costs.

Sd/-

Assistant Registrar(CS V)

//True copy//

Sub Assistant Registrar

To

- 1.The Collector,
Kancheepuram District,
Kancheepuram
2. The Tahsildar,
Pallavaram Tahsildar Officer,
Chrompet, Chennai - 600 044
3. The Junior Engineer,
Public Works Department,
Irrigation Section,
Water Resources Organisation,
Padappai - 601 301
4. The Commissioner,
Pallavaram Municipality,
Pallavaram, Chennai

+1cc to Mr.M.Selva,, Advocate SR.No.324
+1cc to Government Pleader SR.No.458

W.P.No.32706 of 2017 and
W.M.P.Nos.36022 to 36024 of 2017

GN(25/01/2018)



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