

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18/04/2018

CORAM:

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

W.P.Nos.25228, 25229 to 25231 of 2015, 25836 to 25879 of 2015 &
M.P.Nos.1 & 2 of 2015, 1 to 1 of 2015, 1 to 1 of 2015

S.SEKAR	... PETITIONER in WP No.25228 of 2015
K.VENKATESWARAN	... PETITIONER in WP No.25229 of 2015
K.MANNU	... PETITIONER in WP No.25230 of 2015
R.MADHESWARAN	... PETITIONER in WP No.25231 of 2015
P.V.KRISHNAMOORTHY	... PETITIONER in WP No.25836 of 2015
D.GURURAJAN	... PETITIONER in WP No.25837 of 2015
V.RAVI	... PETITIONER in WP No.25838 of 2015
P.PALANI	... PETITIONER in WP No.25839 of 2015
K.SIVAKUMAR	... PETITIONER in WP No.25840 of 2015
A.MOHAMMED MUQTIAH	... PETITIONER in WP No.25841 of 2015
R.SELVI	... PETITIONER in WP No.25842 of 2015
G.DHANDAPANI	... PETITIONER in WP No.25843 of 2015
R.SIVAGAMI	... PETITIONER in WP No.25844 of 2015
A.S.ARUMUGAM	... PETITIONER in WP No.25845 of 2015
V.KUMAR	... PETITIONER in WP No.25846 of 2015
K.RAMU	... PETITIONER in WP No.25847 of 2015
G.SUBRAMANI	... PETITIONER in WP No.25848 of 2015
K.SAKTHIVEL	... PETITIONER in WP No.25849 of 2015
A.R.ABDUL MALIQ	... PETITIONER in WP No.25850 of 2015
A.MANORANGITHAM	... PETITIONER in WP No.25851 of 2015
P.GIRIJA	... PETITIONER in WP No.25852 of 2015
M.BASHA	... PETITIONER in WP No.25853 of 2015
B.SWATHIKA	... PETITIONER in WP No.25854 of 2015
D.SAROJINI	... PETITIONER in WP No.25855 of 2015
M.SARAVANAN	... PETITIONER in WP No.25856 of 2015
R.SENTHIL KUMAR	... PETITIONER in WP No.25857 of 2015
V.KRISHNAMOORTHY	... PETITIONER in WP No.25858 of 2015
S. RAJENDRAN	... PETITIONER in WP No.25859 of 2015
L.JANIKHAN	... PETITIONER in WP No.25860 of 2015
SHAKILA BEGAM	... PETITIONER in WP No.25861 of 2015
P.V. RAMAMOORTHY	... PETITIONER in WP No.25862 of 2015

T.BUVANESWARI ... PETITIONER in WP No.25863 of 2015
G.DHANDAPANI ... PETITIONER in WP No.25864 of 2015
P.JAYALAKSHMI ... PETITIONER in WP No.25865 of 2015
R.BALAMURUGAN ... PETITIONER in WP No.25866 of 2015
M.MANNABI ... PETITIONER in WP No.25867 of 2015
R.PUSHPA ... PETITIONER in WP No.25868 of 2015
R.SIVAKUMAR ... PETITIONER in WP No.25869 of 2015
D.VALLI ... PETITIONER in WP No.25870 of 2015
T.S.DEIVEEGAN ... PETITIONER in WP No.25871 of 2015
HAFFIZA ... PETITIONER in WP No.25872 of 2015
M.VASANTHA ... PETITIONER in WP No.25873 of 2015
S.GOVINDAN ... PETITIONER in WP No.25874 of 2015
L.MUBARAK ALI ... PETITIONER in WP No.25875 of 2015
D.MOHANASUNDHARAM ... PETITIONER in WP No.25876 of 2015
K.BANUMATHY ... PETITIONER in WP No.25877 of 2015
S.ABDUL MAJID ... PETITIONER in WP No.25878 of 2015
K.LOGARAJ ... PETITIONER in WP No.25879 of 2015

Vs.

1. The Director of Town Panchayat,
Kuralagam, Chennai - 600 108.
2. The District Collector,
Villupuram District, Villupuram.
3. The Executive Officer,
Thirukkivilur Town Panchayat,
Thirukkivilur, Villupuram District. ... Respondents in all Wps

PRAYER:

Writ Petitions filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to call for the records pertaining to the Notice under reference in Na.Ka.No.A1/185/2013, dated 22.07.2015 of the third respondent issued to the petitioners and quash the same.

For Petitioner : Mr.N.Anand Venkatesh
in all Wps

For Respondent R3 : Mr.P.Sanjai Gandhi
in all Wps Standing Counsel

For Respondent
R1 & 2: Mr.V.Shanmuga Sundar,
in all Wps Special Government Pleader.

C O M M O N O R D E R

Since common issues arise for consideration in all these Writ Petitions, they have been taken up together and disposed of by a common order.

2. These Writ Petitions have been filed challenging the eviction notices issued by the third respondent.

3. The case of the petitioners is that the third respondent had allotted open space to the petitioners and subsequently they have put up small shops and they have been running business for more than three decades. In the year 1987, the third respondent had issued a notice dated 23.02.1987 for auctioning the shops. The said notice was challenged by the Vyabarigal Sangam in W.P.No.3299 of 1987 and as per the order passed in the Writ Petition, the lease was renewed. While so, the third respondent issued notices to the petitioners without getting approval from the Council of Town Panchayat. Even as per the approved plan, there was no necessity for eviction of the petitioners and the impugned notices would infringe the right of the petitioners guaranteed under Article 19(1)(g) of the Constitution of India.

4. The third respondent has filed a counter denying the allegations made in the affidavit and it is stated that the Thirukkivilur Town Panchayat had decided to upgrade the bus stand by demolishing the existing superstructures to accommodate more buses and also for providing for better amenities to the users and thereafter, by a Resolution dated 20.09.2013 it was decided to evict the lessees. It is further stated that the Government of Tamil Nadu has sanctioned Rs.2 Crores for development of the bus stand.

5. A common rejoinder has been filed by the petitioners contending that during the pendency of these Writ Petitions, the second respondent had proceeded with construction of new bus stand at the cost of Rs.2 Crores and the new bus stand was inaugurated by the Hon'ble Chief Minister on 04.03.2017, so, at this juncture, there is no necessity for the respondents to proceed with the impugned notices.

6. Mr.N.Anand Venkatesh, learned counsel for the petitioners submitted that in the year 1985 the Panchayat has allotted open space measuring from 60 sq.ft to 140 sq.ft to the petitioners

to put up shops. Since then, they have been in possession of the shops by paying lease amount regularly. The impugned notification came to be issued on 22.07.2015 on the only ground for the development of bus stand and admittedly construction of the new bus stand had been completed and inaugurated by the Hon'ble Chief Minister, so, the purpose for which the notices were issued had got vanished. The learned counsel further submitted that the occupation of the petitioners would no way cause any hindrance to the Panchayat for the development of the bus stand.

7. Per contra Mr.P.Sanjai Gandhi, learned Standing Counsel for the respondents submitted that the Panchayat had taken a decision to upgrade the bus stand and the notification was issued for the purpose of development of the bus stand and not for construction of the new bus stand. Hence, even after inauguration of the bus stand, the obligation of the Panchayat to give more facilities to the commuters is still subsisting and the policy decision of the respondents cannot be questioned by the lessees in these Writ Petitions.

8. Heard Mr.N.Anand Venkatesh, learned counsel for the petitioners and Mr.P.Sanjai Gandhi, learned Standing counsel for the respondents and perused the records and also photographs produced by both sides.

9. Perusal of the impugned orders would reveal that the notices were issued for development of the bus stand. As rightly contended by the learned Standing Counsel for the respondents, the notices were not issued for construction of the bus stand. It is evident from the photographs that the petitioners have put up small shops in the bus stand. According to the learned Standing Counsel for the respondents, it causes nuisance to the commuters and in view of the interim order passed in the Writ Petitions, development activities in the bus stand have been crippled.

10. It is not in dispute that the petitioners have occupied the land in the year 1985 and subsequently, area of the Panchayat has extended, population in the Panchayat and the movement of the vehicles have increased in manifolds. Taking note of these facts, the Panchayat had taken a decision to develop the bus stand in order to give more facility to the general public. Hence, I do not find any force in the contentions of the learned counsel for the petitioners.

11. In view of the above fact, in my considered opinion, the petitioners are not entitled for the relief sought for in these Writ Petitions. In the result, all the Writ Petitions are dismissed. There is no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Director of Town Panchayat,
Kuralagam,
Chennai - 600 108.
2. The District Collector,
Villupuram District,
Villupuram.
3. The Executive Officer,
Thirukkivilur Town Panchayat,
Thirukkivilur,
Villupuram District.

+5ccs to Mr.N.Anand Venkatesh, Advocate, S.R.No.28974

W.P.Nos.25228, 25229 to 25231 of 2015,
25836 to 25879 of 2015 &
M.P.Nos.1 & 2 of 2015,
1 to 1 of 2015,
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CNR(CO)
CS/19/04/18

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