

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09-07-2018

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.10799 of 2013

And

M.P.No.1 of 2013

Kattur Sri Balamurugan Charitable Trust,
Represented by its Secretary,
K.Jayaraman, Kattur,
Ammani Kondalampatty,
Salem-10.

... Petitioner

Versus

1.The District Revenue Officer,
District Collectorate Buildings,
Salem,
Salem District.

2.The Revenue Divisional Officer,
District Collectorate Buildings,
Salem,
Salem District.

3.The Tahsildar,
Cherry Road,
Salem,
Salem District.

.. Respondents

PRAYER: Writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records relating to the order of the third respondent dated 10.10.2012 in Na.Ka.No.7081/2012/A.6 and quash the same.

For Petitioner : Mr.K.Selvaraj

For Respondents : Ms.A.Sri Jayanthi,
Special Government Pleader.

O R D E R

The notice issued by the third respondent under Section 6 of the Tamil Nadu Encroachment Act, 1905 in proceedings dated 10.10.2012, is under challenge in this writ petition.

2. The writ petitioner is a registered Charitable Trust and the learned counsel, appearing on behalf of the writ petitioner, states that the object of the Trust is to give educational aid to both the school and the college students, to give medical aid to the poor and the downtrodden people, to protect the environment, to give protection and aid to the deserted elders, women and orphans, to give protection to the deserted children and orphans, to aid the youth development, to impart physical education training to all the pupil, to give aid for the development of women, to abolish the child labour, to extend financial assistance for marriage to the poor and downtrodden people, to aid for the rural development, to help for the implementation of State and Central Government Welfare Schemes, to create awareness of social and cultural activities, to rehabilitate the challenged widows and to construct Community Hall/Marriage Hall for the benefit of the poor and downtrodden people of all communities.

3. Section 6 of the Tamil Nadu Land Encroachment Act, 1905, deals with liability of person unauthorisedly occupying land to summary eviction, forfeiture of crops etc., Section 7 deals with prior notice to person in occupation. Thus, the authority competent/respondents are bound to follow the procedures contemplated under the Land Encroachment Act. Under the Act, notice is to be issued to the encroachers under Section 7 of the Act and on receipt of any explanations/objections, then the authorities competent, by verifying the records, have to pass orders on summary eviction under Section 6 of the Land Encroachment Act. It is duty mandatory on the part of the authorities to ensure that the land belongs to the Government. In the event of identifying the public land, then they have to evict the encroachers without any further delay. In the present writ petition on hand, the writ petitioner challenged the proceedings initiated by the authorities under the provisions of the Land Encroachment Act.

4. The learned counsel, appearing on behalf of the writ petitioner, made a submission that the writ petitioner is a Charitable Trust and constructed a Community Hall and leasing the same for conducting the marriage functions and other functions and collecting rent. If the writ petitioner is an encroacher, then there cannot be any leniency and the authorities competent are bound to initiate action against him by following the procedures contemplated under law.

5. The learned Special Government Pleader, appearing on behalf of the respondents, made a submission that the writ petitioner-Trust is an encroacher. Under the name of a Charitable Trust, the writ petitioner cannot be allowed to encroach the public land and construct a Community Hall and lease the same for marriage functions and other functions. The activities of the writ petitioner-Trust itself is to be investigated by the competent authorities. If the Trust is misusing the public land for unlawful enrichment, then the authorities competent are bound to initiate prosecution and all actions to deal with the Trust. The Trust created is for a particular purpose and if the public lands are abused and misused by such Trusts, then the authorities cannot show any leniency and initiate appropriate action even against the activities of the Trust under law.

6. However, in respect of the present writ petition, the proceedings issued under the Land Encroachment Act, is under challenge and it is for the respondents to issue appropriate orders, evicting the writ petitioner from the Government land by providing an opportunity. The provisions contemplated under the Land Encroachment Act, is to be followed scrupulously. In view of the fact that the impugned proceedings are issued in the year 2013, the respondents are directed to issue fresh notice under the provisions of the Tamil Nadu Land Encroachment Act, 1905 and on receipt of explanations/objections from the writ petitioner, examine the same along with the materials available in revenue records, take a decision and pass orders and thereafter, execute the order without any further delay. Such exercise of passing an order is to be done by the respondents, within a period of eight weeks from the date of receipt of a copy of this order.

7. Accordingly, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

Svn

To

1.The District Revenue Officer,
District Collectorate Buildings,
Salem,
Salem District.

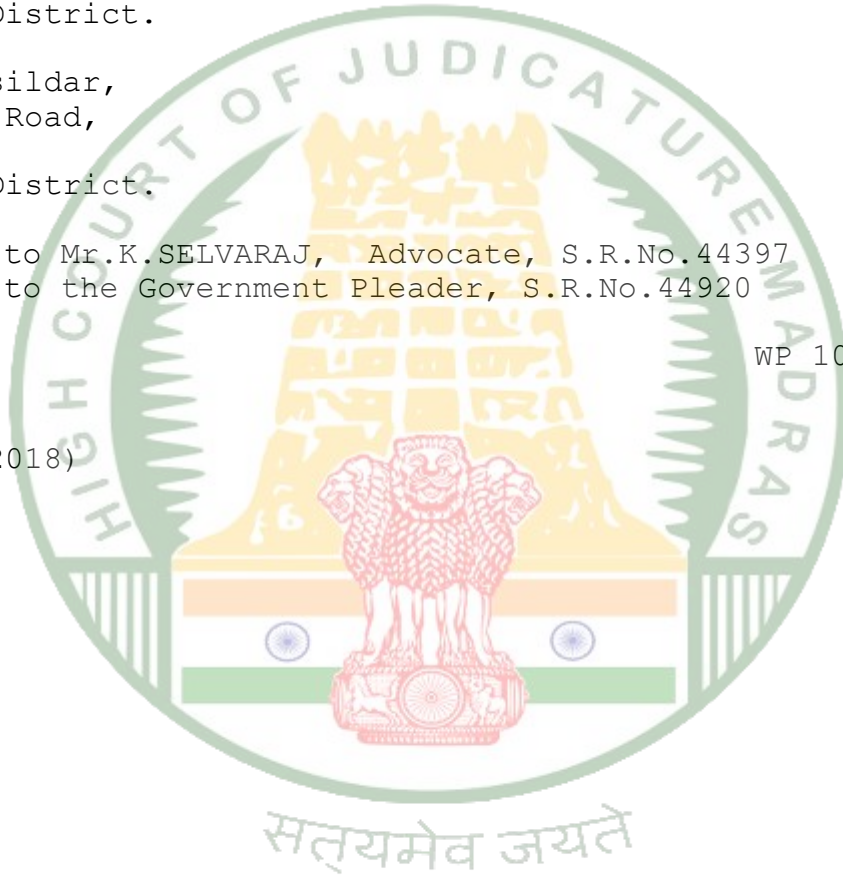
2.The Revenue Divisional Officer,
District Collectoreate Buildings,
Salem,
Salem District.

3.The Tahsildar,
Cherry Road,
Salem,
Salem District.

+1cc to Mr.K.SELVARAJ, Advocate, S.R.No.44397
+1cc to the Government Pleader, S.R.No.44920

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NA (CO)
TR(18/07/2018)



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