

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.03.2018

CORAM:

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

W.P. Nos.18759 & 18760 of 2010 &
M.P.Nos.1 & 1 of 2010

K.N.Rajendiran ... Petitioner in
W.P.No.18759 of 2010

M.N.Rajendiran ... Petitioner in
W.P.No.18760 of 2010

Vs.

1.The District Collector,
Cuddalore.

2.The Executive Officer,
Srimushnam Town Panchayat,
Kattumannarkoil Taluk,
Cuddalore District.

... Respondents in
both Writ Petitions

PRAYER in both Writ Petitions: 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 Na.Ka.No.Aa/1/4/2008, dated 29.07.2010, on the file of the second respondent and quash the same.

For Petitioner in
both Writ Petitions : Mr.R.Selvakumar

For Respondent No 1 in
both Writ Petitions : Mr.N.Manikandan
Government Advocate

C O M M O N O R D E R

These Writ Petitions have been filed challenging the notice issued by the second respondent, directing the petitioners to remove the encroachment.

2. Heard Mr.R.Selvakumar, learned counsel for the petitioner; Mr.N.Manikandan, learned Government Advocate for the

respondents and perused the records.

3. The case of the petitioners is that they own property bearing Door Nos.108/70 & 109/71 at Bazzar Street, Srimushnam, Kattumannarkoil Taluk, Cuddalore District and the properties were constructed as per the plan approved by the second respondent. However, the respondents without conducting proper survey and without following the earlier order of this Court in W.P.No.21524 of 2008 and etc. batch, issued the impugned notice.

4. The learned counsel for the petitioners, while reiterating the averments made in the affidavit, submitted that even after passing of the impugned order, the petitioners gave representation on 04.08.2010, requesting them to conduct survey before proceeding with removal of encroachment. The learned counsel further submitted that the petitioners would not have any grievance if the respondents take further action, after conducting proper survey.

5. The learned Government Advocate submitted that the notice impugned in this Writ petition was issued after conducting survey and the petitioners were found encroachers and if a direction is issued, the respondents are ready to proceed further after conducting survey.

6. In the instant case, the respondent initiated action against the petitioner describing him as an encroacher, but the petitioner contends it is his patta land. Even though, it is stated that the respondents already conducted survey, but no materials have been placed in support of their case.

7. In the light of the above facts and submissions of the learned counsels, the impugned notice dated 29.07.2010 is set aside and the respondents shall proceed with the removal of encroachment, if the petitioner is found an encroacher, after conducting survey of the land in dispute. Accordingly, these Writ Petitions are allowed. There is no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Deputy Registrar

//True Copy//

Sub Assistant Registrar

r n s

To

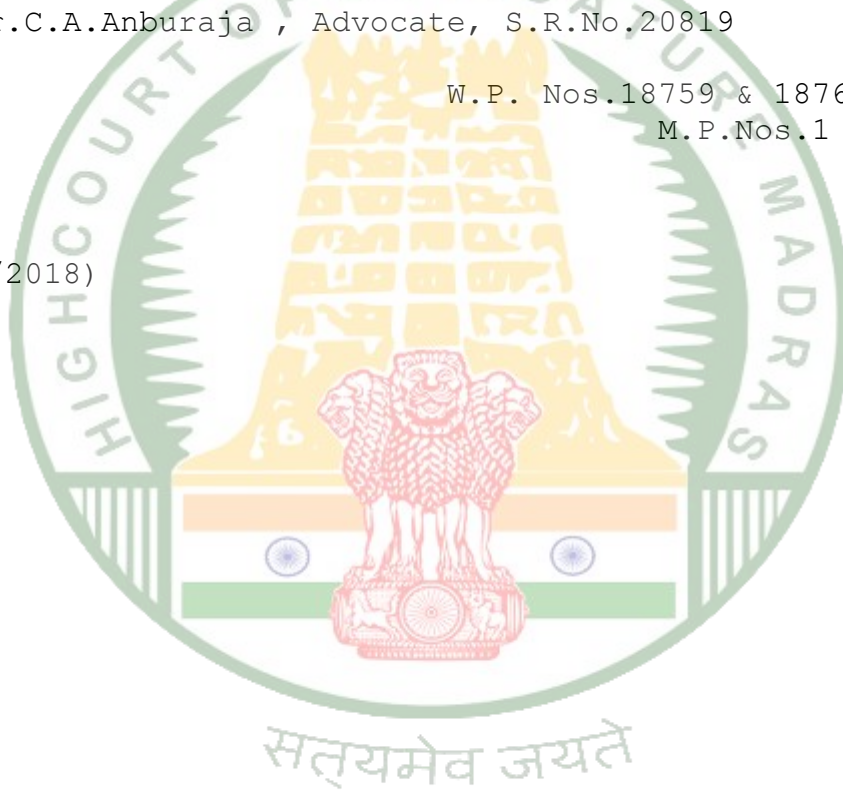
1.The District Collector,
Cuddalore.

2.The Executive Officer,
Srimushnam Town Panchayat,
Kattumannarkoil Taluk,
Cuddalore District.

+1cc to Mr.S.Natanarajan, Advocate, S.R.No.20845
+1cc to Mr.S.Natanarajan , Advocate, S.R.No.20844
+1cc to the Government Pleader, S.R.No.21400
+1cc to Mr.C.A.Anburaja , Advocate, S.R.No.20819

W.P. Nos.18759 & 18760 of 2010 &
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GSP (06/04/2018)



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