



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.10.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.P.Nos.26390, 26399, 26409, 26422, 26430 of 2018 and
Connected Miscellaneous Petitions

K.Sivakumar	...Petitioner in W.P.No.26390/2018
P.Manickam	...Petitioner in W.P.No.26399/2018
P.Mani	...Petitioner in W.P.No.26409/2018
K.Arumugham	...Petitioner in W.P.No.26422/2018
K.Sengodu	...Petitioner in W.P.No.26430/2018

-vs-

- 1.The District Collector,
Dharmapuri District,
Collectorate, Dharmapuri - 636 705.
- 2.The Revenue Divisional Officer,
Salem Bypass, Periyar Nagar,
Harur, Dharmapuri District - 636 903.
- 3.The Tahsildar,
Pappireddipatti Taluk,
Dharmapuri District - 636 905. Respondents in all WPs

PRAYER:

W.P.No.26390/2018 filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the notices dated 08.12.2017 and 09.01.2018 issued by the 3rd respondent to the petitioner under Section 7 and 6 of the Tamil Nadu Land Encroachment Act, 1905 in connection with the land measuring an extent of 0.52.5 hectares and 0.69.0 hectares in S.No.438/1A1 and S.No.438/1A2 in Alapuram Village, Pappireddipatti Taluk in Dharmapuri District and quash the same as barred by limitation and violative of the fundamental rights of the petitioner under Articles 14 and 21 of the Constitution of India and consequently direct the 3rd respondent to issue patta for the said land in the name of the petitioner.



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W.P.No.26399/2018 filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the notices dated 08.12.2017 and 09.01.2018 issued by the 3rd respondent to the petitioner under Section 7 and 6 of the Tamil Nadu Land Encroachment Act, 1905 in connection with the land measuring an extent of 0.52.0 hectares in S.No.438/1B2 in Alapuram Village, Pappireddipatti Taluk in Dharmapuri District respectively and quash the same as barred by limitation and violative of the fundamental rights of the petitioner under Articles 14 and 21 of the Constitution of India and consequently direct the 3rd respondent to issue patta for the said land in the name of the petitioner.

W.P.No.26409/2018 filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the notices dated 08.12.2017 and 09.01.2018 issued by the 3rd respondent to the petitioner under Section 7 and 6 of the Tamil Nadu Land Encroachment Act, 1905 in connection with the land measuring an extent of 0.20.0 hectares in S.No.438/1A3 in Alapuram Village, Pappireddipatti Taluk in Dharmapuri District and quash the same as barred by limitation and violative of the fundamental rights of the petitioner under Articles 14 and 21 of the Constitution of India and consequently direct the 3rd respondent to issue patta for the said land in the name of the petitioner.

W.P.No.26422/2018 filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the notices dated 10.12.2017 and 09.01.2018 issued by the 3rd respondent to the petitioner under Section 7 and 6 of the Tamil Nadu Land Encroachment Act, 1905 in connection with the land measuring an extent of 6 acres and 22 cents in S.No.120/1 and 120/2 in Vellalapatti Village, Pappireddipatti Taluk in Dharmapuri District and quash the same as barred by limitation and violative of the fundamental rights of the petitioner under Articles 14 and 21 of the Constitution of India and consequently direct the 3rd respondent to issue patta for the said land in the name of the petitioner.

W.P.No.26430/2018 filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the notices dated 10.12.2017 and 09.01.2018 issued by the 3rd respondent to the petitioner under Section 7 and 6 of the Tamil Nadu Land Encroachment Act, 1905 in connection with the land measuring an extent of 1.13.5 hectares in S.No.265/3 in Bommididi Village,



Pappireddipatti Taluk, Dharmapuri District and quash the same as barred by limitation and violative of the fundamental rights of the petitioner under Articles 14 and 21 of the Constitution of India and consequently direct the 3rd respondent to issue patta for the said land in the name of the petitioner.

For Petitioners : Mrs.Nalini Chidambaram
Senior Counsel for
Ms.C.Uma

For Respondents: Mr.J.Pothiraj
Special Govt.Pleader

C O M M O N O R D E R

[Order of the Court was delivered by
K.K.SASIDHARAN,J.]

Heard Ms.Nalini Chidambaram, learned Senior Counsel on behalf of the petitioners. Mr.J.Pothiraj, learned Special Government Pleader takes notice for the respondents.

2. The challenge in these writ petitions is to the final order under Section 6 of the Tamil Nadu Land Encroachment Act, 1905.

3. Admittedly, the order passed under Section 6 of the Land Encroachment Act is appealable under Section 10 of the said Act. There is a provision for stay of further proceedings also under Section 10-B of the said Act. In view of the same, we do not propose to entertain the writ petitions.

4. We give liberty to the petitioners to file an appeal before the appropriate authority under Section 10 of the Land Encroachment Act. If the appeal is filed within a period of 30 days' from today, the Appellate Authority shall entertain the appeal de hors the question of limitation. The stay petition shall be considered at the first instance. Till orders are passed in the stay petition, status quo prevailing as on today shall be maintained. In case, no appeal is filed within the period noted above, it is open to the statutory authority to proceed in accordance with law.



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

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

- 1.The District Collector,
Dharmapuri District,
Collectorate, Dharmapuri - 636 705.
- 2.The Revenue Divisional Officer,
Salem Bypass, Periyar Nagar,
Harur, Dharmapuri District - 636 903.
- 3.The Tahsildar,
Pappireddipatti Taluk,
Dharmapuri District - 636 905.
- 4.The Section Officer,
E.R.Section,
High Court, Madras-104.

+5cc to Mr.C.Uma, Advocate Sr.70342, 70343, 70344, 70345, 70346
+1cc to the Government Pleader Sr.70534

W.P.Nos.26390, 26399, 26409,
26422, 26430 of 2018

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srg 26/11/2018