

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:21.12.2018

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE DR.JUSTICE ANITA SUMANTH

Writ Petition No.34271 of 2018
& WMP Nos.39831, 39834 and 39835 of 2018

1. Justin Santhanam
2. Sheik Ibrahim
3. Sahul Hameed
4. Nather

..... Petitioners

Vs.

1. The District Collector,
Chennai District,
Chennai - 600 001.
2. The Tahsildar,
Ambattur Taluk,
Taluk Office,
Chennai - 600 053.
3. The Revenue Inspector,
Ambattur Taluk,
Taluk Office,
Ambattur, Chennai - 600 053.

..... Respondents

सत्यमेव जयते

PETITION filed under Article 226 of The Constitution of India praying for the issuance of writ of certiorarified mandamus calling for the records culminating in the show cause notice ref.no.U.Mu.824/2018, dated 11.12.2018, purportedly issued by the 3rd respondent under the Tamil Nadu Land Encroachment Act, 1905, quash and forbear the respondents from initiating any action against the petitioners under the provisions of the Tamil Nadu Land Encroachment Act, 1905, in respect of lands comprised in T.S.No.102, Ambattur Village and Taluk, formerly Tiruvallur District, now Chennai District.

For Petitioner : Mr.V.R.Kamalanathan
for M/s.B.Harikrishnan

For Respondents : Mr.V.Jayaprakash Narayanan, G.P.

J U D G M E N T

(Delivered by DR.VINEET KOTHARI,J)

The petitioner has filed this Writ Petition against the Show Cause Notice dated 11.12.2018 issued by the Revenue Inspector, Ambattur Taluk alleging therein that the petitioner has constructed the property in question in No.4 Ambattur Village, Fasli No.1428 in T.S.No.102/2 of Village Natham, a commercial complex on the land of 0.372 sq.m., which is illegal.

2. The said notice appears to have been issued in pursuance of the order of the learned single Judge in W.P.No.10691 of 2013 (Mr.Abdul Nazar V. The District Collector and others) decided on 25.10.2018. The directions of the learned single Judge are quoted below for ready reference:

'19. In this view of the matter, the following directions are issued:-

(i) The relief, as such, sought for in the present writ petition stands rejected;

(ii) The District Collector, Thiruvallur District is directed to convene a review meeting, within a period of two weeks from the date of receipt of a copy of this order and issue suitable orders/instructions to all the officials concerned and to identify the encroachments within his jurisdiction, both in the Government lands as well as in the water bodies and water resources;

(iii) The District Collector, Thiruvallur District is directed to issue orders to all the officials concerned to initiate proceedings to evict those encroachers and protect the land for the welfare of the public at large;

(iv) The District Collector, Thiruvallur District is directed to examine the records in relation to the present writ petition in WP No.10691 of 2013 and institute appropriate criminal case/prosecutions if the bogus pattas or other bogus pattas produced by any one of the parties for the purpose of encroachments of the Government lands.

20. With the above directions, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.'

3. The learned counsel for the petitioner urged before the Court that the construction is raised by the petitioner on a validly granted patta land and therefore, the impugned notice is without jurisdiction and deserves to be quashed by this Court.

4. On the other hand, learned Government Pleader appearing for the respondents submits that the notice has been issued in pursuance to the aforesaid directions of the learned single Judge and therefore the petitioner can very well respond to the Show Cause Notice along with relevant evidence about the validity of the patta. He fairly submits that unless appropriate orders are passed in pursuance to the impugned notice dated 11.12.2018, no demolition work shall be undertaken by the respondents.

5. Having heard the learned counsel for the parties, we are of the opinion that the present Writ Petition filed by the petitioner is pre-mature. The petitioner is at liberty to show cause before the concerned authority in pursuance to the impugned Show Cause Notice dated 11.12.2018 along with necessary and relevant evidence in his possession. Since the principles of natural justice are sought to be complied with by the respondent - Revenue Inspector, Ambattur Taluk, by giving this impugned Show Cause Notice, we are not inclined to interfere with the matter at this stage and therefore, we relegate the petitioner back to the said authority with a direction that the petitioner may produce relevant evidence before the concerned authority and the said authority is expected to pass appropriate orders after giving opportunity to the petitioner on such show cause notice, preferably within a period of four (4) weeks from today. It is only after the appropriate orders are passed on the said notice, the respondents may proceed further in accordance with law.

6. With these observations, this Writ Petition is disposed of. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

sl

To

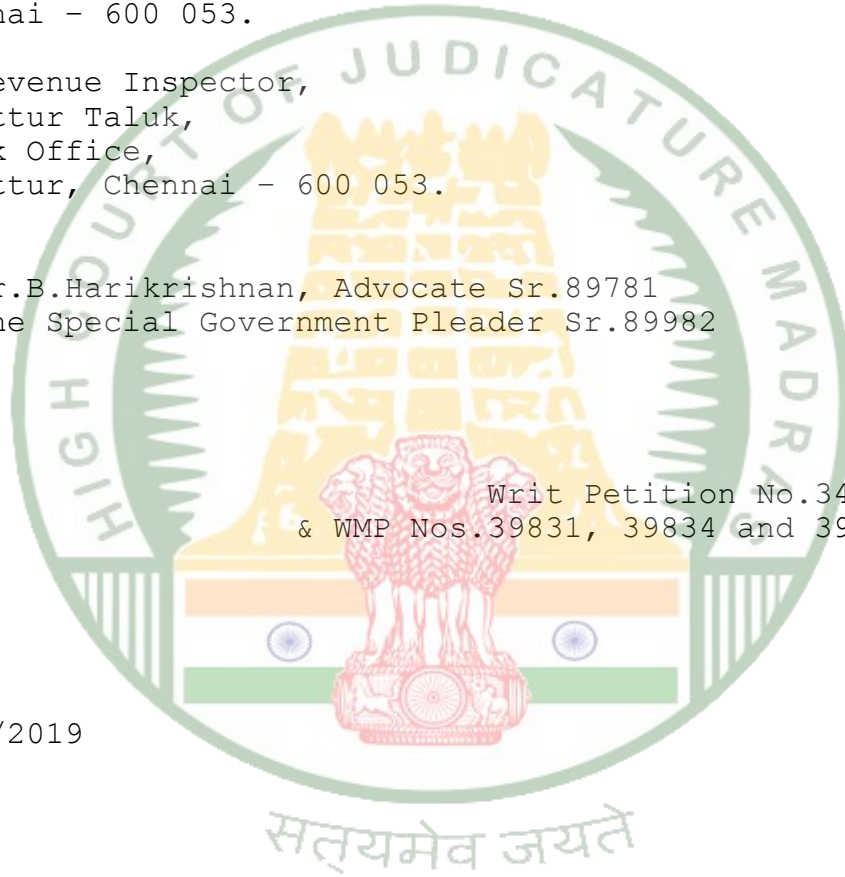
1. The District Collector,
Chennai District,
Chennai - 600 001.
2. The Tahsildar,
Ambattur Taluk,
Taluk Office,
Chennai - 600 053.
3. The Revenue Inspector,
Ambattur Taluk,
Taluk Office,
Ambattur, Chennai - 600 053.

+1cc to Mr.B.Harikrishnan, Advocate Sr.89781

+1cc to the Special Government Pleader Sr.89982

Writ Petition No.34271 of 2018
& WMP Nos.39831, 39834 and 39835 of 2018

svn[co]
srg 23/01/2019



WEB COPY