



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 12.10.2018

CORAM:

THE HONOURABLE MR. JUSTICE T.RAJA
and

THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.P. (MD) No.21562 of 2018

and

W.M.P. (MD) No.19464 of 2018

- 1.Somasundaram
- 2.Ganapathy
- 3.Maharasi
- 4.Vallithai
- 5.Arunachalam
- 6.Arumugathevar
- 7.Palavesam
- 8.Pappa
- 9.Mariammal
- 10.Vadivu
- 11.Chandira
- 12.Durairaj
- 13.Manikandan
- 14.Thangam

... Petitioners

Vs.

- 1.The District Collector,
Thoothukudi District,
Thoothukudi.
- 2.The Tahsildar,
Srivaikundam Taluk,
Thoothukudi District.
- 3.The Assistant Engineer,
Public Works Department,
Srivaikundam Taluk,
Thoothukudi District.

... Respondents

PRAYER: The writ petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the records pertaining to the impugned order in Na.Ka.AA.7-5210-2018, dated 27.09.2018 and sixth petitioner's notice in Na.Ka.A5. 5201-2018, dated 08.10.2018 passed by the second respondent and quash the same as illegal.

For Petitioner

: Mr.Niranjana S. Kumar

For Respondents

: Mr.V.R.Shanmuganathan

Special Government Pleader



ORDER

(Order of the Court was made by T.RAJA, J.)

This Writ Petition is filed against the impugned notice dated 27.09.2018 issued by the Tahsildar, Srivaikundam, wrongly addressed to the petitioners to remove the encroachment made in Survey No.809/1 which according to the respondents is a water body (குளம்). When the first petitioner is the pattadhar of land covered in Survey No.637/2 having an extent of 0.15.50 Ares and another land covered in Survey No.638 having an extent of 0.16.00 Ares, the second respondent ought not to have been issued notice calling for the petitioners to vacate from the land in Survey No.809/1.

2.The learned Counsel appearing for the petitioners submitted that these two lands were originally owned and enjoyed by the owner Zamindhar Sankaralingam Chettiyar who has put the petitioners in permissive possession and enjoyment of the same. While so, the petitioners are no way connected with the land in Survey No.809/1. Therefore, the petitioners have come to this Court as it has been addressed to the petitioners.

3.Mr.V.R.Shanmuganathan, learned Special Government Pleader appearing for the respondents submitted that as rightly indicated by the learned Counsel appearing for the petitioners, the petitioners are not the owners of the land covered in Survey No.809/1. Since the petitioners have encroached into the land which does not belong to them the present impugned proceedings has been issued against them.

4.We are also not able to see whether the petitioners are the owners or encroached into the land covered in Survey No.809/1 which is falling in water body (குளம்). As the petitioners have come to this Court saying that they are not owning any land in Survey No.809/1 which is a part of water body (குளம்), we also do not wish to interfere with the impugned order. Therefore, the respondents are at liberty to proceed against any one who has encroached into the water body in Survey No.809/1. It is made clear that the respondents shall execute the removal of encroachment in respect of Survey No.809/1 alone.

5.With the above observation, this Writ Petition is dismissed. No costs. Consequently, the connected Writ Miscellaneous Petition is closed.

Sd/

Assistant Registrar(AD-I)

/True copy/

Sub Assistant Registrar(CS-I)

To

1.The District Collector,
Thoothukudi District,
Thoothukudi.



2.The Tahsildar,
Srivaikundam Taluk,
Thoothukudi District.

3.The Assistant Engineer,
Public Works Department,
Srivaikundam Taluk,
Thoothukudi District.

+1cc to M/s.Special Government Pleader,SR.No. 90798

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and

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12.10.2018

SRM

KK/SV/SAR-1/13.11.2018/3P-5C