

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 10.10.2018

CORAM:

THE HONOURABLE MR.JUSTICE T.RAJA**AND****THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY****W.P(MD)Nos.20914 to 20916 of 2018****and****W.M.P(MD)Nos.18684 to 18686 of 2018****W.P(MD)No.20914 of 2018:**

T.Murugasamy

... Petitioner

Vs.

1.The District Collector,
District Collectorate,
Tirunelveli,
Tirunelveli District.

2.The Tahsildar,
Rathapuram Taluk,
Ramanathapuram District.

3.The Block Development Officer,
Block Development Office,
Rathapuram,
Tirunelveli District.

4.The Inspector of Police,
Koodankulam Police Station,
Koodankulam,
Tirunelveli District.

5.The Assistant Engineer,
The Tamil Nadu Electricity Board,
Koodankulam,
Tirunelveli District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for issuance of a writ of Certiorarified Mandamus to call for the records pertaining to the impugned eviction notice A2/2819/2017, dated 24.09.2018 on the file of the third respondent and quash the same as illegal and consequently, direct the respondents 1, 2 and 3 herein to grant patta for the properties of the petitioner situated in S.No.334/1A at D.No.10/62, Sankaneri Salai, Koodankulam, Tirunelveli District, to an extent of 3 cents



within the time frame stipulated by this Court.

For Petitioner : Mr.T.Lajapathi Roy

For Respondents : Mr.VR.Shanmuganathan
Special Government Pleader

* * * * *

W.P(MD)No.20915 of 2018:

T.Sounthirapandi

... Petitioner

Vs.

- 1.The District Collector,
District Collectorate,
Tirunelveli,
Tirunelveli District.
- 2.The Tahsildar,
Rathapuram Taluk,
Ramanathapuram District.
- 3.The Block Development Officer,
Block Development Office,
Rathapuram,
Tirunelveli District.
- 4.The Inspector of Police,
Koodankulam Police Station,
Koodankulam,
Tirunelveli District.
- 5.The Assistant Engineer,
The Tamil Nadu Electricity Board,
Koodankulam,
Tirunelveli District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for issuance of a writ of Certiorarified Mandamus to call for the records pertaining to the impugned eviction notice A2/2819/2017, dated 24.09.2018 on the file of the third respondent and quash the same as illegal and consequently, direct the respondents 1 and 2 herein to grant patta for the properties of the petitioner situated in S.No.334/1A at D.No.10/197-1, Sankaneri Salai, Koodankulam, Tirunelveli District, to an extent of 2 cents within the time frame stipulated by this Court.



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For Petitioner : Mr.T.Lajapathi Roy
For Respondents : Mr.VR.Shanmuganathan
Special Government Pleader

* * * * *

W.P(MD)No.20916 of 2018:

S.Y.Arul

... Petitioner

Vs.

- 1.The District Collector,
District Collectorate,
Tirunelveli,
Tirunelveli District.
- 2.The Tahsildar,
Rathapuram Taluk,
Ramanathapuram District.
- 3.The Block Development Officer,
Block Development Office,
Rathapuram,
Tirunelveli District.
- 4.The Inspector of Police,
Koodankulam Police Station,
Koodankulam,
Tirunelveli District.
- 5.The Assistant Engineer,
The Tamil Nadu Electricity Board,
Koodankulam,
Tirunelveli District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for issuance of a writ of Certiorarified Mandamus to call for the records pertaining to the impugned eviction notice A2/2819/2017, dated 24.09.2018 on the file of the third respondent and quash the same as illegal and consequently, direct the respondents 1 and 2 herein to grant patta for the properties of the petitioner situated in S.No.334/1A at Sankaneri Salai, Koodankulam, Tirunelveli District, to an extent of 4 cents within the time frame stipulated by this Court.



WEB COPY

For Petitioner : Mr.T.Lajapathi Roy
For Respondents : Mr.VR.Shanmuganathan
Special Government Pleader
* * * * *

COMMON ORDER

[Order of the Court was made by **T.RAJA,J.**]

These writ petitions have been filed challenging the impugned eviction notice dated 24.09.2018 issued by the third respondent calling upon the petitioners to remove the encroachments made by them in Odai (water channel) within seven days failing which action will be taken at the cost of the petitioners.

2. By consent, the writ petitions are taken up for final disposal.

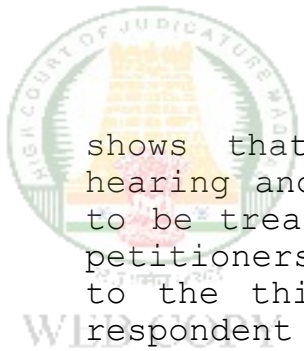
3. Heard the learned Counsel for the parties.

4. Learned Counsel for the petitioners submitted that the petitioners have constructed the houses only in the Government poramboke land in S.No.334/1, which is adjacent to small water channel (Odai). Now, the Government also decided to sub-divide the said poramboke land as residential area and Odai and therefore, the impugned notice cannot be issued against the petitioners directly asking them to vacate within seven days.

5. In reply, Mr.VR.Shanmuganathan, learned Special Government Pleader appearing for the respondents placing on record the copy of the order dated 25.05.2017 passed in Writ Petition(MD)No.10020 of 2017 [**V.Sandal Muthuraj v. The District Collector, Tirunelveli District, Tirunelveli and others**], submitted that this Court, by the said order, while entertaining the said writ petition for issuance of a writ of Mandamus to remove the encroachments from the water channel falling on the Survey Nos.9/2, 10/2, 11/2, 12/3, 30/2, 31/2, 34/2, 35/3, 38/2, 40/2, 40/4, 41/2, 250/2, 251/1A, 251/2, 251/3A, 252, 253/1B, 253/2, 253/3A, 254/1B, 254/2, 256/1, 257/1, 257/2B, 259, 298/1, 300/2, 327/6, 330/2B, 334/1A, 628/2, 679, 680/2, 681/2, 683, 924/3, 925/2, 926/1A, 948, 949/1 and 950/1 which includes ponds, tanks and oorani, directed the District Collector - first respondent therein to consider the representation dated 21.03.2017 after giving opportunity of personal hearing to the petitioner and other necessary parties on merits and in accordance with law and pass appropriate orders within a period of eight weeks from the date of receipt of a copy of the order. Based on the said order, action has been taken.

<https://hcservices.ecourts.gov.in/hcservices/>

6. However, we find that the eviction notice impugned herein



shows that the encroachers have not been given any personal hearing and therefore, the impugned eviction notices are directed to be treated as notices by the petitioners and accordingly, the petitioners are given two weeks' time to submit their explanation to the third respondent and on receipt of the same, the third respondent is further directed to consider the same and pass appropriate orders for taking action in accordance with law.

7. With the above directions, these writ petitions stand disposed of. No costs. Consequently, the connected writ miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

Sub Assistant Registrar(CS-I)

To

- 1.The District Collector,
District Collectorate,
Tirunelveli, Tirunelveli District.
- 2.The Tahsildar,
Rathapuram Taluk,
Ramanathapuram District.
- 3.The Block Development Officer,
Block Development Office,
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- 4.The Inspector of Police,
Koodankulam Police Station,
Koodankulam, Tirunelveli District.
- 5.The Assistant Engineer,
The Tamil Nadu Electricity Board,
Koodankulam, Tirunelveli District.

+3 CC To MR.T.LAJAPATHI ROY, Advocate SR. NO. 89978
+1 CC TO The Special Government Pleader SR.NO. 90424

W.P(MD)Nos.20914 to 20916 of 2018

and

W.M.P(MD)Nos.18684 to 18686 of 2018

10.10.2018

RSB