

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.08.2019

CORAM

THE HONOURABLE Mr.JUSTICE M.DHANDAPANI

W.P.s 24861 to 24863 of 2006
and
M.P.s 1 & 2 of 2006

W.P. 24861 of 2006

S.Datchinamoorthy ... Petitioner

Vs

1. The Commissioner
Pondicherry Municipality,
Pondicherry.
2. The Director,
Department of Survey and Land
Records,
Government of Pondicherry,
Saram, Pondicherry.
3. The District Collector,
Pondicherry Town,
Pondicherry.

4. A.Vengatahalam
 5. M.Devanathan
 6. Rajarathinam
 7. N.Sambhavamurthy
 8. A.Rajalakshmi
 9. S.Nagarathinam
 10. N.Chandraksearan
 11. Sundaram @ Ramalingam
 12. Radhakrishnan
 13. Rajarathinam
- R4 to R 13 are said to
be residing at Mettu Street,
Thengai Thittu,
Pondicherry.

R4 to R13 are impleaded as
per order dated 11.08.2006
in M.P. No.2 of 2006

... Respondents

W.P. 24862 of 2006

A.Valli

... Petitioner

Vs

1. The Commissioner
Pondicherry Municipality,
Pondicherry.
 2. The Director,
Department of Survey and Land
Records,
Government of Pondicherry,
Saram, Pondicherry.
 3. The District Collector,
Pondicherry Town,
Pondicherry.
 4. A.Vengatahalam
 5. M.Devanathan
 6. Rajarathinam
 7. N.Sambhavamurthy
 8. A.Rajalakshmi
 9. S.Nagarathinam
 10. N.Chandraksearan
 11. Sundaram @ Ramalingam
 12. Radhakrishnan
 13. Rajarathinam
- R4 to R 13 are said to
be residing at Mettu Street,
Thengai Thittu,
Pondicherry.

R4 to R13 are impleaded as
per order dated 11.08.2006
in W.P.M.P. No.1 of 2006

... Respondents

W.P. 24863 of 2006

S.Sundari

... Petitioner

Vs

1. The Commissioner
Pondicherry Municipality,
Pondicherry.

2. The Director,
Department of Survey and Land
Records,
Government of Pondicherry,
Saram, Pondicherry.

3. The District Collector,
Pondicherry Town,
Pondicherry.

4. A.Vengatahalam
5. M.Devanathan
6. Rajarathinam
7. N.Sambhavamurthy
8. A.Rajalakshmi
9. S.Nagarathinam
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11. Sundaram @ Ramalingam
12. Radhakrishnan
13. Rajarathinam

R4 to R 13 are said to
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Thengai Thittu,
Pondicherry.

R4 to R13 are impleaded as
per order dated 11.08.2006
in M.P. No.1 of 2006

.... Respondents

COMMON PRAYER : Writ Petitions filed under Article 226 of the
Constitution of India, praying to issue a Writ of Certiorari, to
call for the records on the file of the 1st respondent in his
proceedings 964/Pu.Na./Va.Aa.1/Ni.Aa/2006 dated 28.07.2006 and
quash the same as illegal, incompetent and without jurisdiction.

For Petitioners : Mr.V.Raghavachari

For Respondents : Mr.J.Kumaran,
Addl. Govt. Pleader (Pondy.)
for R1 to R3

C O M M O N O R D E R

These Writ Petitions have been filed challenging the
impugned order of the 1st respondent in his proceedings dated
28.06.2006 and quash the same as illegal, incompetent and
without jurisdiction.

2. The case of the petitioners is that the petitioners are permanent residents of Mettu Street, Thengai Thittu, Pondicherry. Based on their title, the petitioners have constructed a pucca house in the property owned by them respectively. The petitioners have obtained a electricity connection, election identity card and water supply from the respective authorities. While being so, the Government of Pondicherry issued a G.O.Ms. No.18 dated 09.04.1999 and as per the said G.O., the persons, who are in occupation of non-objectionable lands or occupying the Government lands were to be identified and issued with house site patta. In the meanwhile, some individuals with an enmity, filed a Writ Petition before this Court for disposal of their representations for the removal of encroachment and this Court by an order dated 27.03.2006 had disposed of the Writ Petition with a direction directing the authorities to consider their representation and to pass appropriate orders after conducting enquiry. But, without conducting any enquiry, the respondents 1 to 3 have issued a notice directing the petitioners to vacate the premises within a period of 10 days and further alleged as if the petitioners have encroached the property. As against the impugned notices, the present Writ Petitions have been filed by the petitioners.

3. Mr.V.Raghavachari, learned counsel appearing for the petitioners would submit that the impugned order is passed without following due process of law and without conducting any enquiry. Hence, the impugned order is liable to be quashed.

4. Mr.J.Kumaran, learned Addl. Government Pleader (Pondy.) appearing for the respondents 1 to 3 would submit that since the petitioners have encroached the road portion, after conducting detailed survey, the impugned order was passed. Hence, this Court need not interfere with the order passed by the 1st respondent. Accordingly, he prayed to dismiss the Writ Petition.

5. On perusal of impugned order, it reveals that the petitioners were directed to remove the encroachment made on the road portion within 10 days, however, that records does not discloses that the enquiry was conducted. On further perusal of records, it is found that in order to comply the principles of natural justice, the respondents 1 to 3 ought to have conducted a detailed enquiry, but without affording any opportunity to petitioners and without conducting any detailed survey, the impugned order has been passed directing the petitioners to remove the encroachment is unsustainable one. Hence, in order to resolve the issue in between the parties, I am inclined to issue a direction to the respondents 1 to 3 to measure the entire road portion in presence of the petitioners and other residents. If the measurement reveals that the petitioners have encroached the

road portion, the encroachment can be removed without any further notice. Accordingly, the present Writ Petitions are disposed of. No costs. Consequently, the connected Miscellaneous Petitions are also closed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

rpp

To

1. The Commissioner,
Pondicherry Municipality,
Pondicherry.
2. The Director,
Department of Survey and Land
Records, Government of Pondicherry,
Saram, Pondicherry.
3. The District Collector,
Pondicherry Town,
Pondicherry.

+3cc to Mr.V.Raghavachari, Advocate SR.No.69965, 69966, 69967

W.P.s 24861 to 24863
of 2006

VSN II (CO)
GMY (19/09/2019)

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