

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 19.09.2019

Coram:

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

Writ Petition No.17565 of 2019
and W.M.P.No.17043, 17044 and 17045 of 2019

1.Arunachalam
2.Thangamuthu
3.Dhanabairavi
4.A.Gopalakrishnan
5.P.Ramasamy
6.M.S.Rajan
7.C.Jaganathan

.. Petitioners

/versus/

1.The District Collector,
Erode District, Erode.

2.The Tahsildar,
Modakurichi Taluk, Modakuruchi, Erode District.

3.The Executive Engineer,
Tamil Nadu Slum Clearance Board,
Coimbatore Division, Selvapuram, Perur (North),
Opposite Sivalaya Mahal,
Coimbatore - 641 002.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus , praying to call for the entire records relating to the impugned order passed by the 1st respondent in his proceedings Na.Ka.No.1605/2019/U1, dated 20.03.2019 and quash the same and consequently directing the respondents to issue Assignment Patta insofar relates to R.S.No.105/7, Kaspapettai A- Village, Modakurichi Taluk, Erode District by receipt of land value to the petitioners.

For Petitioner :Mr.C.Prakasam

For Respondents :Mr.N.Inbanathan

Additional Government Pleader
for R1 and R2

Mr.S.Prabhu

Standing Counsel for R3

O R D E R

By consent, the main writ petition is taken up for final disposal at the admission stage itself.

2. Heard Mr.C.Prakasam, learned counsel appearing for the petitioner and , Mr.N.Inbanathan, Additional Government Pleader, who takes notice on behalf of the respondents 1 and 2 and Mr.S.Prabhu, Standing Counsel for R3.

3. The prayer in the writ petition is to issue a Writ of Certiorarified Mandamus , praying to call for the entire records relating to the impugned order passed by the 1st respondent in his proceedings Na.Ka.No.1605/2019/U1, dated 20.03.2019 and quash the same and consequently directing the respondents to issue Assignment Patta insofar relates to R.S.No.105/7, Kaspapettai A- Village, Modakurichi Taluk, Erode District by receipt of land value to the petitioners.

4. The petitioner herein earlier has sought for grant of patta through requisition letter in the year 2011. The request was received by Revenue Officials and forwarded for consideration. Based on that, the writ petition has been filed as if the land belongs to Slum Clearance Board and sought for Mandamus to consider and pass orders on his representation. This Court has passed the following order based on the submissions of the petitioner as well as the respondents:

3. On the other hand, the learned counsel Mr.B.S.Sundaramoorthi, appearing for the 3rd respondent contended that the petitioners are not entitled to get such patta, as they are encroachers of the land belonging to the 3rd respondent Board.

4. This Court, at this stage is not expressing any view on the merits of the claim made by the petitioner as well as the 3rd respondent, as it is for the 1st respondent to consider and decide. Therefore, without expressing any view on the merits of the matter, all these writ petitions are disposed of only by directing the first respondent to consider the claim of each petitioner and pass orders on their request for assignment of patta in respect of the subject matter land on merits and in accordance with law, after giving due opportunity of hearing to the petitioners as well as the concerned officials of the 3rd respondent, Slum Clearance

Board. Both the parties are at liberty to place their respective contentions and materials before the first respondent so as to enable him to take appropriate decision on the issue between the parties. The first respondent shall pass such order within a period of three months from the date of receipt of a copy of this order. Till an order is passed by the first respondent, the parties are directed to maintain statu quo as on today. No costs. Consequently, connected miscellaneous petitions are closed."

5. Therefore, the District Collector has conducted enquiry, wherein, the petitioners/members, Slum Clearance Board, Revenue Department and representatives of the Sri Satheeswaraswami temple have participated in the enquiry and after enquiry the District Collector has categorically concluded that the said property belongs to temple though the revenue records show that it is described as Annathinam.

6. Having participated in the enquiry before the District Collector and received the proceedings dated 20.03.2019, the petitioners have filed the present writ petition without impleading the temple and seeking Mandamus to assign patta to them. The manner in which, the petitioners try to get patta behind the back of the temple, which is found to be the owner of the land itself is condemnable. Further, the request of assigning temple land to public need not be entertained in this writ petition.

7. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

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To

1.The District Collector,
Erode District, Erode.

2.The Tahsildar,
Modakurichi Taluk, Modakuruchi, Erode District.

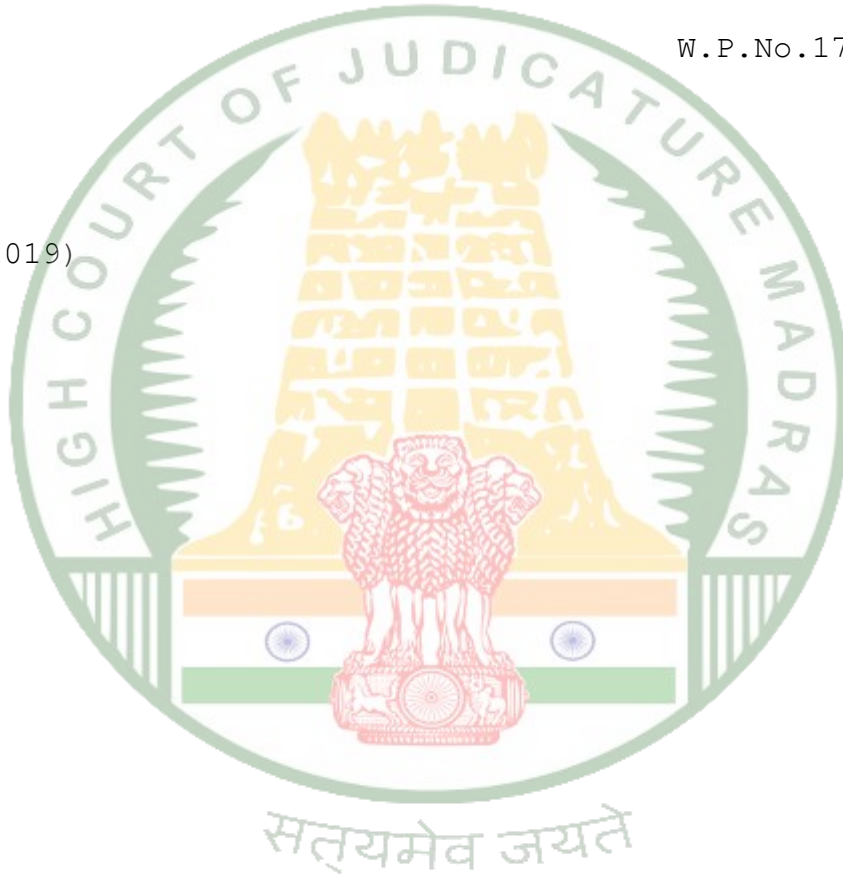
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3.The Executive Engineer,
Tamil Nadu Slum Clearance Board,
Coimbatore Division, Selvapuram, Perur (North),
Opposite Sivalaya Mahal,
Coimbatore - 641 002.

+1 CC to Mr.S.Prabhu, Advocate sr 81234.
+1 CC to Govt. Pleader sr 81188
+1 CC to Mr.C.Prakasam, Advocate sr 80873.

W.P.No.17565 of 2019

RSI (CO)
SP(24/10/2019)



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