

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.07.2019

CORAM :

THE HON'BLE MRS.VIJAYA K.TAHILRAMANI, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE M.DURAIWAMY

W.P. Nos.11493, 11548, 11792, 31746, 31749, 31751,  
31752, 31753 and 31754 of 2017

**W.P.Nos.11493 and 11548 of 2017:**

Chandra ..Petitioner in W.P.11493/2017

Radhakrishnan ..Petitioner in W.P.11548/2017

-Vs-

1.The District Collector,  
Namakkal, Namakkal District.

2.The Tashildar,  
Tashildar Office,  
Komarapalayam Taluk,  
Namakkal District.

3.The Commissioner,  
Komarapalayam Municipality,  
Komarapalayam,  
Namakkal District.

.. Respondents in  
W.P.Nos.11493 and 11548/2017

**W.P.No.11792 of 2017:**

A.Maheswari ..Petitioner

-Vs-

1.The District Collector,  
Namakkal District.

2.The Revenue Tahsildar,  
Taluk Office, Komarapalayam.

3.The Commissioner,  
Komarapalayam Municipality,  
Komarapalayam, Namakkal District.

..Respondents

**W.P.Nos.31746, 31749, 31751, 31752, 31753 & 31754 of 2017:**

|               |                                |
|---------------|--------------------------------|
| Madhu Saradha | ..Petitioner in W.P.31746/2017 |
| Kamala        | ..Petitioner in W.P.31749/2017 |
| Muthusamy     | ..Petitioner in W.P.31751/2017 |
| Yuvaraj       | ..Petitioner in W.P.31752/2017 |
| Kandasamy     | ..Petitioner in W.P.31753/2017 |
| Saraswathi    | ..Petitioner in W.P.31754/2017 |

-Vs-

- 1.The District Collector,  
Namakkal District, Namakkal.
- 2.The Tahsildar,  
Komarapalayam Taluk,  
Namakkal District.
- 3.The Commissioner,  
Komarapalayam Municipality,  
Komarapalayam,  
Namakkal District.
- 4.The Assistant Executive Engineer,  
Cauvery East Canal Irrigation Division,  
Public Works Department,  
Ethirmedi, Thattankuttai Village,  
Komarapalayam, Namakkal District.
- 5.The Assistant Engineer,  
Public Works Department,  
Mettur Canal Division,  
Komarapalayam, Namakkal District.

..Respondents in all WPs

W.P.Nos.11493, 11548 of 2017 filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorari calling for the records of the third respondent in and by his proceeding in Na.Ka.A2/3400/2014 dated 24.04.2017 and quash the same.

W.P.No.11792 of 2017 filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus forbearing the third respondent from initiating any action on the basis of his notices dated 12.07.2016 in

Na.Ka.No.A2/3400/2014 and 24.04.2017 in Na.Ka.No.A2/3400/2014 by considering petitioner's representation dated 02.05.2017.

W.P.Nos.31746/2017 filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus forbearing the respondents 1 to 5 from evicting the petitioner without conducting re-survey by the respondents by fixing the boundaries for canal Poramboke based on the original revenue records in respect of the land comprised in Survey No.126/A situate at Agraharam Village Komarapalayam Taluk Namakkal District.

W.P.Nos.31749/2017 filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus forbearing the respondents 1 to 5 from evicting the petitioner without conducting re-survey by the respondents by fixing the boundaries for canal Poramboke based on the original revenue records in respect of the land comprised in Survey No.126/A situate at Agraharam Village Komarapalayam Taluk Namakkal District to an extent of 3 3/4 cents.

W.P.Nos.31751/2017 filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus forbearing the respondents from evicting the petitioner without conducting re-survey by the respondents by fixing the boundaries for canal Poramboke based on the original revenue records in respect of the land comprised in Survey No.126/A situate at Agraharam Village Komarapalayam Taluk Namakkal District

W.P.Nos.31752/2017 filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus forbearing the respondents 1 to 5 from evicting the petitioner without conducting re-survey by the respondents by fixing the boundaries for canal Poramboke based on the original revenue records in respect of the land comprised in Survey No.126/A to an extent of 3684 sq.ft. and 2493 sq.ft. situate at Agraharam Village Komarapalayam Taluk Namakkal District.

W.P.Nos.31753/2017 filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus forbearing the respondents 1 to 5 from evicting the petitioner without conducting re-survey by the respondents by fixing the boundaries for canal Poramboke based on the original revenue records in respect of the land comprised in Survey No.126/A to an extent of 71 1/2 cents situate at Agraharam Village Komarapalayam Taluk Namakkal District.

W.P.Nos.31754/2017 filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus forbearing the respondents 1 to 5 from evicting the petitioner

without conducting re-survey by the respondents by fixing the boundaries for canal Poramboke based on the original revenue records in respect of the land comprised in Survey No.121 situate at Agraharam Village Komarapalayam Taluk Namakkal District to an extent of 71/5 cents.

For Petitioners : Mr.A.Sundaravadhanan  
(W.P.Nos.11493 & 11548 of 2017)

Mr.V.Lakshmi Narayanan  
for M/s.R.Marudhachalamurthy  
(W.P.No.11792 of 2017)

Mr.V.Lakshmi Narayanan  
for M/s.C.Prabakaran  
(W.P.Nos.31746, 31749, 31751  
to 31754 of 2017)

For Respondents : Mr.V.Jayaprakash Narayanan  
Government Pleader (i/c)  
for respondent Nos.1 and 2  
in all WPs.  
and respondent Nos.4 and 5  
in W.P.Nos. 31746, 31749,  
31751 to 31754 of 2017

Mr.T.M.Pappiah  
Spl. Government Pleader  
for respondent No.3  
in all WPs.

#### COMMON ORDER

(Order of the Court was made by M.Duraiswamy, J.)

The petitioners in these writ petitions have filed the above writ petitions to forbear the third respondent from initiating any action on the basis of the notices dated 12.07.2016 and 24.04.2017 and to quash the said notices.

2. It is the case of the petitioners that by virtue of notices dated 12.07.2016 and 24.04.2017, the official respondents are trying to dispossess the petitioners from the property in dispute and therefore, the respondents should be prevented from initiating any action on the basis of the said notices.

3. The learned Government Pleader (i/c) appearing for respondent Nos.1 and 2 submitted that the petitioners in these writ petitions have filed civil suits in O.S.Nos.21 of 2016; 15

of 2016; 223 of 2016; 28 of 2016; 20 of 2016; 22 of 2016; 18 of 2016; 376 of 2015 and 356 of 2015 respectively on the file of the District Munsif Court, Tiruchengode for permanent injunction and the same are pending.

4. The learned counsel appearing for the petitioners also admitted that the petitioners have filed civil suits before the District Munsif Court, Tiruchengode for permanent injunction and the same are pending.

5. When the petitioners have filed civil suits for permanent injunction, they cannot simultaneously file writ petitions seeking issuance of writ of mandamus forbearing the third respondent from initiating any action on the basis of the notices dated 12.07.2016 and 24.04.2017. Further, when the petitioners have availed the alternate remedy of filing civil suits before the District Munsif Court, Tiruchengode, the writ petitions cannot be entertained.

6. The learned counsel for the petitioners submitted that the trial Court i.e., the District Munsif Court, Tiruchengode may be directed to dispose of the civil suits within a time frame. The learned counsel for the petitioners further submitted that in all these suits filed by the petitioners, pleadings are completed and the suits are posted for framing of Issues.

7. In view of the submissions made by the learned counsel appearing on either side, the writ petitions are dismissed. The District Munsif, Tiruchengode is directed to dispose of the suits in O.S.Nos.21 of 2016; 15 of 2016; 223 of 2016; 28 of 2016; 20 of 2016; 22 of 2016; 18 of 2016; 376 of 2015 and 356 of 2015 on merits and in accordance with law within a period of six months from the date of receipt of a copy of this order. No costs. Consequently, W.M.P.Nos.12474, 12538, 34894, 34897, 34899, 34900, 34901 and 34902 of 2017 are closed.

bbr

Sd/-  
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To  
1.The District Collector,  
Namakkal District,Namakkal.

- 2.The Tahsildar,  
Komarapalayam Taluk,  
Namakkal District.
- 3.The Commissioner,  
Komarapalayam Municipality,  
Komarapalayam, Namakkal District.
- 4.The Revenue Tahsildar,  
Taluk Office, Komarapalayam,  
Namakkal District.
- 5.The Assistant Executive Engineer,  
Cauvery East Canal Irrigation Division,  
Public Works Department,  
Ethirmedi, Thattankuttai Village,  
Komarapalayam, Namakkal District.
- 6.The Assistant Engineer,  
Public Works Department,  
Mettur Canal Division,  
Komarapalayam, Namakkal District.

Copy to:-

The District Munsif,  
Thiruchengode.

+9CCs to Mr.N.Manokaran, Advocate, SR.No.57914,57915,57916  
57860 to 57862,57859,57857,57858

+1cc to Mr.R.Marudhachalamurthy, Advocate, SR.No.58420

+2cc to Mr.A.Sundaravadhanan, Advocate, SR.No.58753 & 58754

W.P. Nos. 11493, 11548, 11792,  
31746, 31749, 31751, 31752,  
31753 and 31754 of 2017

Kak(27/08/2019)