

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 08.11.2019
CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
AND

THE HONOURABLE MR.JUSTICE N. SESHASAYEE

W.P.No.31538 of 2019
and
WMP Nos.31738 & 31740 of 2019

1.Jayaraman
2.Arumugam .. Petitioners

Vs

1.The District Collector
Office of Collectorate
Perambur District.
2.Revenue District Officer
Office of Revenue District
Perambalur
Perambalur District.
3.Tahsildar
Tahsildar Office
Kunnam Taluk
Perambalur District.
4.The Revenue Inspector
Keelapuliyur
Kunnam Taluk
Perambalur District.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the impugned notice dated 09.10.2019 issued by the 3rd respondent and quash the same as illegal, without jurisdiction and the violation of the provisions of the Tamil Nadu Land Encroachment Act, 1905.

For Petitioners : Mr.E.K.Kumaresan

For Respondents : Mr.P.S.Sivashanmugasundaram,
Special Government Pleader.

O R D E R

[Order of the Court was made by M.SATHYANARAYANAN, J]

By consent, this writ petition is taken up for final disposal.

2. The petitioners challenging the legality of the proceedings initiated under the provisions of the Tamil Nadu Land Encroachment Act, 1905, came forward to file this writ petition.

3. The learned counsel appearing for the petitioners would submit that the landed property admeasuring to an extent of 0.16 Hec in S.F.No.162/1A at Keelapuliyur, South Village, Kunnam Taluk, Perambalur District is an ancestral one and that apart, they also owned lands in S.F.Nos.162/1B & 162/2B, situate on the Southern side of S.F.No.161/1A and joint patta has also been issued in their favour along with their sister Muthayee.

4. The learned counsel appearing for the petitioners would further submit that on an earlier occasion, the third respondent had passed an order dated 10.01.2019 in Na.Ka.No.A2/4236/2018, holding that the land in S.No.162/1A is an encroachment and ordered the removal of the same subject to the outcome of the suit in O.S.No.123 of 2017, pending on the file of the Court of District Munsif, at Perambalur and challenging the said order, an appeal was also preferred by the petitioners herein on the file of the second respondent on 18.02.2019 and the same was also acknowledged in Petition No.2019/9005/16/939487/0218, dated 18.02.2019 and despite pendency of the same, the third respondent had initiated action under the provisions of the Tamil Nadu Land Encroachment Act, 1905 and hence, prays for appropriate orders.

5. This Court heard the submissions of Mr.P.S.Sivashanmugasundaram, learned Special Government Pleader, who accepts notice on behalf of the respondents.

6. Though the petitioners pray for larger relief, this Court in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioners in this writ petition, directs the second respondent to entertain the appeal in Petition No.2019/9005/16/939487/0218, dated 18.02.2019, if the papers or otherwise in order and give a disposal on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order and till such time, the second respondent shall defer further decision in terms of the impugned notices under Sections 7 and 6 dated 24.09.2019 and 09.10.2019 respectively. It is also made

clear that the petitioners, till the disposal of the appeal by the second respondent, shall not create any third party rights in support of the land in question.

7. This writ petition is disposed of accordingly. Consequently, connected miscellaneous petitions are also closed. No costs.

Sd/-
Assistant Registrar (CS-IV)

// True Copy//

Sub Assistant Registrar

vsm

To

- 1.The District Collector
Office of Collectorate
Perambur District.
- 2.Revenue District Officer
Office of Revenue District
Perambalur, Perambalur District.
- 3.Tahsildar
Tahsildar Office
Kunnam Taluk, Perambalur District.
- 4.The Revenue Inspector
Keelapuliyur
Kunnam Taluk
Perambalur District.

+1cc to Mr.E.K.Kumaresan, Advocate, SR.No.93107.

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BP (CO)
CSR(30/12/2019)