



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 30.04.2019
CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI

W.P. (MD) No.11176 of 2019

and

W.M.P. (MD) Nos.8736 and 8737 of 2019

- 1.B.Geetha
- 2.V.Pandi
- 3.M.Ambalarajan
- 4.S.Rajeshwari
- 5.T.Vasantha
- 6.R.Arjunan
- 7.V.Karuppasamy
- 8.S.P.Panchavararam
9. Kamatchiamman Temple,
represented by M.Muthu Lakshmi,
Wife of Murugesan,
No.115, Fourth Street,
N.S.K.Nagar.
- 10.Kamatchiamman Temple,
represented by B.Thavamani
Wife of Balasubramani,
No.115, N.S.K.Nagar, Fourth Street.
- 11.R.Rani @ Indirani
- 12.T.Azhagar
- 13.S.Ilangovan
- 14.R.Somasundaram
- 15.S.Meenakchi
- 16.D.Jaiganesh
- 17.K.Mariammal

... Petitioners

Vs.

1. The District Collector,
Madurai,
Madurai District.
2. The Commissioner,
Madurai Corporation,
Madurai.
3. The Tahsildar,
Madurai South,
Madurai-625 002.



4. The Executive Engineer,
Tamil Nadu Housing Board,
Ellis Nagar,
Madurai - 16.

5. The Executive Engineer,
Public Work Department/WRO,
Periyar Vaigai Basin,
Madurai -2.

... Respondents

Prayer:- Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records of the impugned notice dated 12.3.2019 issued by the third respondent under Sections 5 and 7 of the Tamil Nadu Land Encroachment Act, 1905 and to quash the same as illegal and arbitrary.

For Petitioner	: Mr.P.Dhanasekaran
For R1, R3 & R5	: Mr.Aayiram K.Selvakumar Addl. Government Pleader
For R2	: Mr.J.Gunaseelan Muthiah Addl.Govt.Pleader
For R4	: Mr.M.Mahaboob Athiff

O R D E R

(Order of the Court was made by **K.KALYANASUNDARAM, J.**)

Heard Mr.P.Dhanasekaran, learned counsel appearing for the petitioners, Mr.Aayiram K.Selvakumar, learned Additional Government Pleader appearing for the respondents 1, 3 and 5, Mr.J.Gunaseelan Muthiah, learned Additional Government Pleader appearing for the second respondent and Mr.M.Mahaboob Athiff, learned counsel appearing for the fourth respondent.

2.By consent of both parties, this Writ Petition is taken up for final disposal.

3.Challenge in this writ petition is the show cause notice issued by the third respondent under Section 7 of the Tamil Nadu Land Encroachment Act.

4.The case of the petitioners is that the land in Survey No.411/1 in Avaniyapuram Village, Madurai District having an extent of 89.22.5 heactares is an abandoned Kanmai and it was originally belong to the Revenue Department. However, in the year 1989, the lands were alienated to the Tamil Nadu Housing Board. Thereafter, the Housing Board prepared a Scheme and sold the land to the private parties. The petitioners would claim that they have occupied the un-utilised land and abandoned the remaining area. Above 4000 families are living in Survey No.411/1 and they are poor coolies. According to the petitioners, since the Housing Board is the owner of the

property, the Revenue Authorities have no right to issue the notice.

5.The learned counsel appearing for the petitioners while reiterating the averments made in the affidavit has further argued that the petitioners have been in occupation for more than 40 years, in view of the dispute between one A.Balasubramanian and Karunanithi, a writ petition in W.P.(MD).No.23043 of 2017 came to be filed and a direction was issued to the authorities to remove the encroachment made by the said Karunanithi. However, the third respondent without any authority has issued the notice.

6.It is contended by the learned counsel for the respondents that though the land in dispute was sold to the Housing Board in the year 1989, but as on date, the land in dispute is classified as Kanmai in the revenue records. It is further stated that under the Housing Board Act, the Board has no provision to remove the encroachment and they have to approach the revenue authorities for removal of the encroachers. Further, even according to the petitioners, they are encroachers of the land in Survey No.411/1 and do not claim right over the property.

7.The learned Standing counsel for the fourth respondent would state that though larger extent of the land in Survey No.411/1 were sold to the Housing Board, only a portion of land was handed over and the remaining land was under encroachment and hence, the Housing Board approached the revenue authorities for removal of the encroachers.

8.In the case on hand, the petitioners have come up before this Court to quash the show-cause notices issued under Section 7 of the Land Encroachment Act, in and by which the petitioners are directed to submit their reply within a period of 15 days. The learned counsel for the petitioners would state that the petitioners are ready to purchase the properties from the respondent Housing Board.

9.Since the writ petition has been filed challenging the show-cause notice, the petitioners are directed to submit their reply within a period of 15 days from today. If any objection or reply is submitted within the time, the third respondent Tahsildar shall consider the same and pass final orders, after affording an opportunity to the petitioners, in accordance with law. Till such time, the respondents shall not precipitate the matter.

10.With the above observation and direction, the writ petition stands disposed of. No costs. Consequently, the connected Miscellaneous Petitions are closed.

sd/

Assistant Registrar

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Sub Assistant Registrar



To

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Madurai,
Madurai District.

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Madurai -2.

+1 CC to Mr.J.GUNASEELAN MUTHIAH, Advocate (SR-64447[F] dated 30/04/2019)

+1 CC to SPL GP (SR-65115[F] dated 02/05/2019)

+1 CC to Mr.P.DHANASEKARAN, Advocate (SR-64840[F] dated 02/05/2019)

ORDER MADE IN
W.P (MD) .No.11176 of 2019
and
W.M.P (MD) .Nos.8736 and
8737 of 2019
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vsn

MK/17.05.2019/4P/9C