



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.07.2019

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

AND

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P(MD)NOs.14655 to 14657, 14659 and 14660 OF 2019

and

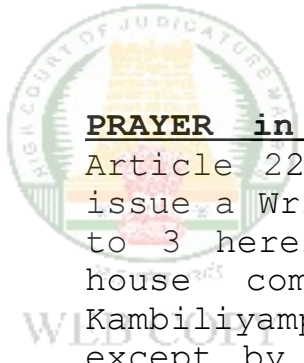
W.M.P(MD)Nos.11106 to 11108, 11110 and 11111 of 2019

- 1.Arumugam :Petitioner in W.P(MD)No.14655 of 2019
- 2.Santhana Thevar :Petitioner in W.P(MD)No.14656 of 2019
- 3.Amaravathi :Petitioner in W.P(MD)No.14657 of 2019
- 4.Chinnammal :Petitioner in W.P(MD)No.14659 of 2019
- 5.Thanneer Gounder :Petitioner in W.P(MD)No.14660 of 2019

.vs.

- 1.The District Collector,
Office of the District Collector,
Dindigul District.
- 2.The Tahsildar,
Dindigul East Taluk Office,
Dindigul.
- 3.The Block Development Officer,
Sanarpatti Panchayat Union,
Dindigul.
- 4.A.Pandidurai
- 5.A.Vellaichamy : Respondents (in all Wps)

PRAYER in W.P(MD)No.14655 of 2019: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus forbearing the respondents respondents 1 to 3 herein from demolishing the portion of the Petitioner's house comprised in S.No.1866/16 situated at East Street, Kambiliyampatti Village, Dindigul East Taluk, Dindigul District except by due process of law by considering his representation, dated 19.6.2019.



PRAYER in W.P(MD)No.14656 of 2019: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus forbearing the respondents respondents 1 to 3 herein from demolishing the portion of the Petitioner's house comprised in S.No.1864/22 situated at East Street, Kambiliyampatti Village, Dindigul East Taluk, Dindigul District except by due process of law by considering his representation, dated 19.6.2019.

PRAYER in W.P(MD)No.14657 of 2019: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus forbearing the respondents respondents 1 to 3 herein from demolishing the portion of the Petitioner's house comprised in S.No.1866/25 situated at East Street, Kambiliyampatti Village, Dindigul East Taluk, Dindigul District except by due process of law by considering her representation, dated 19.6.2019.

PRAYER in W.P(MD)No.14659 of 2019: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus forbearing the respondents respondents 1 to 3 herein from demolishing the portion of the Petitioner's house comprised in S.No.1864/20 situated at East Street, Kambiliyampatti Village, Dindigul East Taluk, Dindigul District except by due process of law by considering her representation, dated 19.6.2019.

PRAYER in W.P(MD)No.14660 of 2019: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus forbearing the respondents respondents 1 to 3 herein from demolishing the portion of the Petitioner's house comprised in S.No.1866/22 situated at East Street, Kambiliyampatti Village, Dindigul East Taluk, Dindigul District except by due process of law by considering his representation, dated 19.6.2019.

For Petitioner
in all W.Ps'

:Mr.J.Lawrance

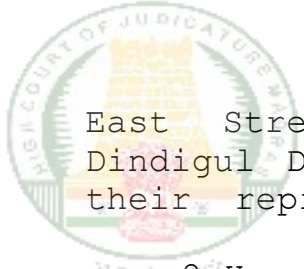
For Respondents
1 to 3 in all W.Ps'

:Mr.VR.Shanmuganathan
Spl. Govt.Pleader

COMMON ORDER

[Order of the Court was made by **K.RAVICHANDRABAABU.,J.**]

All these Writ Petitions are filed seeking for a mandamus forbearing the respondents 1 to 3 from demolishing the portion of the Petitioners' house comprised in S.Nos.1866/16,1864/22,1866/25,1864/20 and 1866/22, situated at



East Street, Kambiliyampatti Village, Dindigul East Taluk, Dindigul District, except by due process of law, by considering their representation, dated 19.6.2019.

2. Heard the learned counsel appearing on behalf of the Petitioners and the learned Special Government Pleader appearing for the respondents 1 to 3.

3. The grievance of the Petitioners before this Court, at the time of filing these Writ Petitions, is that the respondents 1 to 3 are trying to demolish the portion of their houses, without following the due process of law by alleging that they have encroached upon the Government land.

4. However, after filing these Writ Petitions, when the matters are taken up for admission today, the learned counsel for the Petitioners fairly submitted that the third respondent namely, the Block Development Officer, Sanarpatti Panchayat Union, Dindigul has now issued a notice, dated 27.6.2019 calling upon each of the Petitioners to vacate their houses within seven days, also by indicating action to be taken under the Tamil Nadu Land Encroachment Act, 1905, if they failed to vacate. Therefore, the learned counsel for the Petitioners submitted that the respondents 1 to 3 are to be prevented from taking any action against the Petitioners.

5. The learned Special Government Pleader, on the other hand submitted that the grievance of the Petitioners is that the respondents 1 to 3 are trying to vacate them from their houses, without following the due process of law and such contentions is no more available, in view of the proceedings issued by the third respondent on 27.06.2019. However, he fairly submitted that the Block Development Officer himself cannot physically remove the Petitioners from the subject-matter property without resorting to the procedures contemplated under the Tamil Nadu Land Encroachment Act, 1905. Therefore, he contended that the Petitioners may be directed to approach the third respondent and give their objections, if any.

6. Considering the above facts and circumstances and considering the subsequent development taken place in pursuant to the filing of these Writ Petitions, We are of the view that it is for the Petitioners to approach the third respondent and file their objections so as to enable the third respondent to take a final decision as to whether the Petitioners are encroachers or not. Therefore, without expressing any view on the merits of the claim made by the respective parties, these Writ Petitions are disposed of with liberty to the Petitioners to file their objections to the impugned notice issued by the third respondent within a period of two weeks from the date of receipt of a copy of this order. On receipt of such objections, the third respondent



shall consider the same and take a decision on merits and in accordance with law and in case, if the third respondent comes to a conclusion that the Petitioners have encroached upon the Government land, it is open to him to seek the initiation of proceedings under the Tamil Nadu Land Encroachment Act, 1905 through the Revenue Officials, for eviction. Till the third respondent takes a decision as stated supra and resorting to the procedures available under 1905 Act, the status-quo as on today, in respect of the Petitioners' property shall be maintained. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CRL.SIDE)

// True Copy //

Sub Assistant Registrar (CS)

To

1.The District Collector,
Office of the District Collector,
Dindigul District.

2.The Tahsildar,
Dindigul East Taluk Office,
Dindigul.

3.The Block Development Officer,
Sanarpatti Panchayat Union,
Dindigul.

+5 CC to M/s.J.LAWRANCE, Advocate (SR-
72781,72779,72780,72776&72777[F] dated 02/07/2019)

+1 cc to The Special Government Pleader Sr.No.72802

VSN

COMMON ORDER MADE IN
W.P(MD)NOS.14655 to 14657,
14659 and 14660 OF 2019
and
W.M.P(MD)Nos.11106 to 11108,
11110 and 11111 of 2019
01.07.2019

KM/(10.07.2019) 4P 10C