



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 06.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

and

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P. (MD) Nos. 7721 & 7722 of 2019

and

WMP (MD) Nos. 6133 to 6135 of 2019

L.P.Veluchamy : Petitioner in W.P. (MD) No. 7721 of 2019
N.Lakshmanasamy : Petitioner in W.P. (MD) No. 7722 of 2019

Vs.

1. The Thasildhar,
Uthamapalayam Taluk, Theni District.
2. The Block Development Officer (Panchayat),
Chinnamannur Panchayat Union,
Theni District. : Respondents in both the writ petitions

COMMON PRAYER: Writ Petitions are filed under Article 226 of the Constitution of India, to issue a writ of Certiorari calling for the records relating with the notice for removal of encroachment in Na.Ka.No.1856/17/T2, dated 22.03.2019, issued by the second respondent and quash the same as it is arbitrary and illegal to an extent of S.No.868/5 and S.No.283/2, are concerned, respectively.

For Petitioners in
both the W.Ps. : Mr.R.Suriya Narayanan

For Respondents in
both the W.Ps. : Mr.V.R.Shanmuganathan
Special Government Pleader

C O M M O N O R D E R

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

Heard the learned counsel appearing for the petitioners and
the learned Special Government Pleader appearing for the
respondents.
<https://hcservices.ecourts.gov.in/hcservices/>

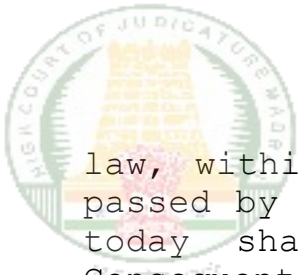


2. In both these writ petitions, the respective writ petitioners challenged the order passed by the second respondent, dated 22.03.2019 calling upon the petitioners to vacate the encroachment within a period of seven days, also by indicating failure would result in action against them for removal of such encroachment.

3. The case of the petitioners before this Court is that the subject matter property is not a poramboke land, but on the other hand, it is village Natham as could be seen in the 'A' Register issued by the revenue department. It is the further case of the petitioner in W.P.(MD)No.7722 of 2019 that his father viz., one Narayanasamy Naidu was already granted Natham patta in respect of the subject matter property as early as in the year 1995 and therefore, he cannot be treated as an encroacher as claimed in the impugned proceedings. In respect of the other writ petitioner, it is contended that he is also in occupation of the village Natham for long number of years and also applied for grant of patta and the said application is pending before the concerned authorities. Therefore, it is contended that the second respondent is not justified in claiming that these petitioners are encroachers and consequently to issue the impugned proceedings, that too, directly asking the petitioners to vacate and hand over the possession.

4. On the other hand, the learned Special Government Pleader submitted that since these petitioners are in occupation of the property without having any authority, the impugned proceedings were issued by the second respondent. However, it is not in dispute that before issuing the impugned proceedings, these petitioners were not put on any notice.

5. Considering the fact that the very impugned proceedings were issued asking the petitioners straight away to vacate and hand over the possession, we are of the view that such proceedings cannot be issued by the second respondent without putting the petitioners on notice before doing so. Therefore, without expressing any view on the merits of the contentions raised by both the parties, these writ petitions are disposed of by directing the parties to treat the impugned proceedings as show cause notices and consequently directing the petitioners to give explanation to the said notices within a period of four weeks from the date of receipt of a copy of this order, by enclosing all the material documents in support of their claim, if any. On receipt of such explanation, the second respondent shall consider the same and pass appropriate final orders on merits and in accordance with



law, within a period of eight weeks thereafter. Till an order is passed by the second respondent as stated supra, status-quo as on today shall be maintained by both the parties. No costs. Consequently, connected Miscellaneous Petitions are also closed.

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Sd/-

Assistant Registrar (AD-I)

// True Copy //

Sub Assistant Registrar(CS)

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To

1. The Thasildhar,
Uthamapalayam Taluk, Theni District.
2. The Block Development Officer (Panchayat),
Chinnamannur Panchayat Union,
Theni District.

+2cc to +1cc to M/S.R.Suriyanarayanan, Advocate, Sr.No. 66999 and
Sr.No.6700
+1cc to M/S SPECIAL GOVERNMENT PLEADER, Sr.No.67411

Order made in
W.P. (MD) Nos.7721 & 7722 of 2019
and
WMP (MD) Nos.6133 to 6135 of 2019
Dated: 06.06.2019

BUC (21/06/2019) 3P/6C