



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.04.2019

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
AND
THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

W.P(MD)NOS.9649 to 9651 OF 2019
and
W.M.P(MD)Nos.7582 to 7584 of 2019

1.R.Ragavan :Petitioner in W.P(MD)No.9649 of 2019
2.R.Rengaraj :Petitioner in W.P(MD)No.9650 of 2019
3.K.Govindaraju :Petitioner in W.P(MD)No.9651 of 2019

.vs.

1.The District Collector,
Collectorate,
Ramanathapuram District.

2.The District Revenue Officer,
District Revenue Office,
Ramanathapuram.

3.The Sub-Collector,
Office of the Sub-Collector,
Paramakudi,
Ramanathapuram District.

4.The Tahsildar,
Taluk Office,
Paramakudi,
Ramanathapuram District. : Respondents in all W.Ps'

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari calling for the records pertaining to the impugned order of the fourth respondent vide his proceedings in Na.Ka.A3/1523/2018, dated 8.4.2019 and to quash the same as illegal.

For Petitioner
in all W.Ps'
For Respondents
1 to 4 in all W.Ps'

:Mr.D.Senthil
:Mr.VR.Shanmuganathan
Special Govt.Pleader

**COMMON ORDER**

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

Heard Mr.D.Senthil, learned counsel appearing for the Petitioners and Mr.VR.Shanmuganathan, learned Special Government Pleader appearing for the respondents 1 to 4 and perused the materials placed before this Court.

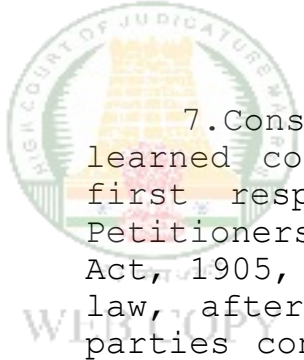
2.These Writ Petitions have been filed challenging the notice of the fourth respondent, dated 8.4.2019 issued under Section 6 of the Tamil Nadu Land Encroachment Act,1905, in and by which, the Petitioners are directed to remove the encroachment made in S.No.204/9.

3.The case of the Petitioners is that the property in Natham Survey Nos.204/6, 204/7 and 204/9-part in S.Kavalur Village, Paramakudi Taluk, Ramanathapuram District was originally belonged to one Venkidusamy Raju and his son Kuppusamy Raju. They sold the property to one Ramasamy Raju through registered sale deed, dated 6.1.1951 and after the demise of the said Ramasamy Raju, his legal heirs had inherited the same and through partition, the property in S.Nos.204/6 and 204/7 was allotted in favour of the father of the Petitioners. The patta was also issued in their name.

4.The learned counsel for the Petitioners would argue that the land in S.No.204/9 was wrongly classified as 'Natham Survey' and on that basis, one Vijayalakshmi had filed W.P.No.9037 of 2018 for removal of encroachment. This Court disposed of the above Writ Petition on 13.11.2018, directing the respondents 2 and 3 to conduct a survey. However, without conducting survey, a notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 was issued, for which, the Petitioners have submitted a detailed reply stating that they have not encroached upon the public pathway. But the fourth respondent, without considering the reply in a proper perspective, passed an order on 1.3.2019.

5.The learned counsel would further submit that the Petitioners have preferred statutory appeals before the first respondent on 16.3.2019 and when the appeal is pending, the impugned order has been passed, as if the Petitioners have encroached upon the public pathway. According to the learned counsel for the Petitioners, the impugned order is illegal and arbitrary.

6.Mr.VR.Shanmuganathan, learned Special Government Pleader appearing for the respondents 1 to 4 would fairly admit that the appeals preferred by the Petitioners are pending before the first respondent.



7.Considering the facts of the case and the submissions of the learned counsel appearing on either side, this Court directs the first respondent to dispose of the appeal preferred by the Petitioners under Section 10 of the Tamil Nadu Land Encroachment Act, 1905, dated 16.3.2019, purely on merits and in accordance with law, after affording sufficient opportunity to all the necessary parties concerned, within a period of four months from the date of receipt of a copy of this order. Till then, the order impugned in these Writ Petitions shall be kept in abeyance.

8.With the above directions, these Writ Petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(Writs)

/TRUE COPY/

Sub Assistant Registrar(CS)

To

1.The District Collector,
Collectorate,
Ramanathapuram District.

2.The District Revenue Officer,
District Revenue Office,
Ramanathapuram.

3.The Sub-Collector,
Office of the Sub-Collector,
Paramakudi,
Ramanathapuram District.

4.The Tahsildar,
Taluk Office,
Paramakudi,
Ramanathapuram District.

+1 CC to M/s.D.SENTHIL, Advocate (SR-61747[F] dated 23/04/2019)

+1 CC to M/s.SPL GP (SR-62133[F] dated 24/04/2019)

COMMON ORDER MADE IN
W.P (MD) NOS.9649 to 9651 OF 2019
and
W.M.P (MD) NOS.7582 to 7584 of 2019
23.04.2019

CS: 16/05/2019/3P/7C

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