



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.04.2019

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

W.P. (MD) Nos.9992 to 9996 of 2019
and
W.M.P. (MD) Nos.7781 to 7785 of 2019

1.Pushparani	... Petitioner in W.P(MD)No.9992 of 2019
2.B.Boopathi	Petitioner in W.P(MD)No.9993 of 2019
3.B.Boopathi	Petitioner in W.P(MD)No.9994 of 2019
4.D.Diwakar	Petitioner in W.P(MD)No.9995 of 2019
5.P.Ashok Kumar	Petitioner in W.P(MD)No.9996 of 2019

Vs.

1. The District Collector,
Madurai,
Madurai District.
2. The Commissioner,
Madurai Corporation,
Madurai.
3. The Zonal Deputy Tahsildar,
Madurai South Taluk,
Madurai.
4. The Executive Engineer,
Tamil Nadu Housing Board,
Ellis Nagar,
Madurai - 16.
5. The Executive Engineer,
Tamil Nadu Slum Clearance Board,
Madurai Division,
Madurai.

...Respondents in all W.Ps'

COMMON PRAYER:-Writ Petitions filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to call for the records pertaining to the impugned order, dated 12.03.2019 issued by the third respondent to the petitioner's house



and quash the same.

For Petitioner : Mr.L.Shaji Chellan
in all W.Ps'

For Respondents : Mr.V.R.Shanmuganathan
1 ,3 and 5 in all Special Government Pleader
W.Ps'

For Respondent-2 : Mr.T.S.Mohamed Mohideen
in all W.Ps'

For Respondent-4 : Mr.M.Mahaboob Athiff

C O M M O N O R D E R

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

Since the issue involved in these writ petitions is one and the same, they have been taken up together and disposed of by this common order.

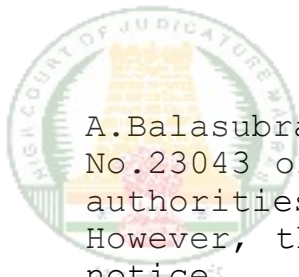
2.Heard Mr.L.Shaji Chellan, learned counsel appearing for the petitioner, Mr.V.R.Shanmuganathan, learned Special Government Pleader appearing for the respondents 1,3 and 5, Mr.T.S.Mohamed Mohideen, learned counsel appearing for the second respondent and Mr.M.Mahaboob Athiff, learned counsel appearing for the fourth respondent and perused the materials placed before this Court.

3.By consent of both parties, these writ petitions are taken up for final disposal.

4. Challenge in these writ petitions is the show- cause notices issued by the third respondent under Section 7 of the Tamil Nadu Land Encroachment Act.

5. The case of the petitioners is that the land in Survey No.411/1 in Avaniyapuram Village, Madurai District, having an extent of 220.55 acres, is an abandoned Kanmai and it was originally belong to the Revenue Department. However, in the year 1988, 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-utilized land and abandoned the remaining area. Above 5000 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.

6. Mr.L.Shaji Chellan, 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 several years and in view of the dispute between one



A.Balasubramaniyan 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.

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7. 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 1988, 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.

8. 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.

9. In the case on hand, the petitioners have come up before this Court to quash the show-cause notice 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.

10. Since these writ petitions have 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.

11. With the above observation and direction, these writ petitions are disposed of. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar (CS)



To

1. The District Collector,
Madurai,
Madurai District.

2. The Commissioner,
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Madurai.

3. The Zonal Deputy Tahsildar,
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Madurai.

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

5. The Executive Engineer,
Tamil Nadu Slum Clearance Board,
Madurai Division,
Madurai.

+1cc to Special Government Pleader, SR.No.62764

+1cc to Mr.L.Shaji Chellan,Advocate, SR.No.62547

+1cc to Mr.T.S.Mohamed Mohideen,Advocate, SR.No.62400

COMMON ORDER MADE IN

W.P. (MD) Nos.9992 to 9996 of 2019
and

W.M.P. (MD) Nos.7781 to 7785 of 2019
25.04.2019

SP/30.04.2019/ 4P/9C