



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI

W.P.(MD) Nos.16003, 16008 & 15904 of 2019
and
W.M.P.(MD) Nos.12699, 12706 & 12628 of 2019

M.Suryamani	...	Petitioner in W.P.(MD) No.16003 of 2019
S.Poongodhai	...	Petitioner in W.P.(MD) No.16008 of 2019
R.Vijayakumar	...	Petitioner in W.P.(MD) No.15904 of 2019

-vs-

1.The District Collector
Madurai District
Madurai

2.The Commissioner /
Block Development Officer
Kottampatti Panchayat Union
Kottampatti
Madurai District

... Respondents in W.P.(MD) Nos.16003 &
16008 / 2019

3.The Commissioner
The Commissionarate of Land Administration
Chepauk
Chennai-5

4.The District Revenue Officer
Madurai District
Madurai

5.The Tahsildhar
Melur Taluk
Madurai District



6.The Commissioner
Kottampatty Panchayat Union
Kottampatty
Madurai District

... Respondents in W.P.(MD)No.15904 of 2019

PRAYER (in W.P.(MD) No.16003 of 2019): Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the impugned order passed by the second respondent vide Na.Ka.No.1164/2017/A4 dated 03.07.2019 and to quash the same as illegal and direct the respondents to issue regular patta to the petitioner in survey No.247/19 as like issued to other nearby residents in survey No.247/2 to 247/11 of Kottampatti Village, Melur Taluk, Madurai District.

PRAYER (in W.P.(MD) No.16008 of 2019): Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the impugned order passed by the second respondent vide Na.Ka.No.1164/2017/A4 dated 03.07.2019 and to quash the same as illegal and direct the respondents to issue regular patta to the petitioner in survey No.247/1 as like issued to other nearby residents in survey No.247/2 to 247/11 of Kottampatti Village, Melur Taluk, Madurai District.

PRAYER (in W.P.(MD) No.15904 of 2019): Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records pertaining to the fourth respondent's impugned order in e.f.vz;. 1164/2017/m-4 dated 03.07.2019 to quash the same as illegal and consequently direct the second respondent to issue patta to him by re-classifying his possessed lands and its extent of 0.00.44 sq.mtrs. Situated in Survey No.247/1 of Kottampatty Village, Melur Taluk, Madurai District, according to law.

For Petitioner : Mr.Raja.Karthikeyan
(in W.P.(MD) Nos.16003 & 16008 / 2019)

For Petitioner : Mr.A.Prasanna Rajadurai
(in W.P.(MD) No.15904 / 2019) for Mr.S.Muthalraj

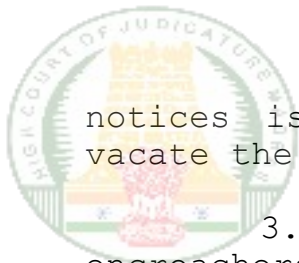
For Respondents : Mr.M.Murugan
(in all W.Ps.) Government Advocate

C O M M O N O R D E R

[Order of the Court was made by T.S.SIVAGNANAM, J.]

Heard the learned counsel on either side.

2. The petitioners are before this Court challenging the



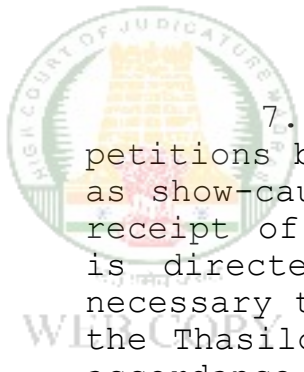
notices issued by Kottampatti Panchayat Union directing them to vacate the encroachments caused by them in a water body.

3. The impugned notices state that the petitioners are encroachers of a water body comprised in Survey No.247/1. The case of the petitioners is that all of them were landless poor and taking into consideration their plight, the Government granted assignment Pattas in the year 2000 for the purpose of construction of houses and this was done, after following due procedures under the Revenue Standing Orders by transferring the land as assessed waste or village site.

4. It is the further case of the petitioners that though assignment Pattas were granted to them, necessary mutations were not carried out in the revenue records. However, since the petitioners have constructed small dwelling units and have been residing there without any hindrance, they did not take any steps to get the revenue records mutated. However, all of a sudden in the year 2019, action was initiated by the Authorities concerned to demolish the petitioners' superstructures alleging that they have encroached the water body. This prompted one of the petitioners, namely, Suryamani, to file O.S.No.329 of 2017, on the file of the District Munsif Court, Melur, and seek for a decree of permanent injunction and the said suit is pending. In the meantime, since the impugned notices have been issued, the petitioners are before this Court.

5. The learned counsels for the petitioners referred to the provisions of the Revenue Standing Orders and submitted that if the revenue records have not been mutated by the revenue officials, the petitioners cannot be blamed and on account of that, the petitioners cannot be termed as encroachers.

6. We have perused the assignment Pattas, which show that the property has been sub-divided. By way of illustration, if we take the assignment Patta granted to Selvam, son of Avayan, who is the husband of the petitioner in W.P.(MD) No.16008 of 2019, the land, which has been assigned, is comprised in Survey No.247/18 and the extent is 10.0 Feet X 7.4 Feet and one of the boundaries to the property is Survey No.247/1. In the impugned notices dated 03.07.2019, it is stated that the encroachment is in Survey No.247/1. Therefore, first it has to be ascertained as to whether the petitioners have made any encroachments beyond the area, which was assigned to them by way of assignment Pattas in the year 2000. Therefore, in our considered view, a more full-fledged enquiry is required to be conducted in the matter. Fearing threat of eviction, the petitioners have rushed to this Court on receiving the impugned notices and hence, they have not placed any material before the official respondents explaining their stand. For such a reason, we are of the view that the matter should be remanded back to the Commissioner, Kottampatti Panchayat Union for appropriate action.



7. In the light of the above, we dispose of the writ petitions by directing the petitioners to treat the impugned notices as show-cause notices, submit their reply along with documents. On receipt of the same, the Commissioner, Kottampatty Panchayat Union is directed to conduct an enquiry, make a spot inspection, if necessary take assistance of survey officials and submit a report to the Thasildar, Melur Taluk, who shall pass orders on merits and in accordance with law. Till such time, no coercive action shall be initiated against the petitioners. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

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To:

1.The District Collector,
Madurai District, Madurai.

2.The Commissioner / Block Development Officer,
Kottampatti Panchayat Union,
Kottampatti, Madurai District.

3.The Commissioner,
The Commissionarate of Land Administration,
Chepauk, Chennai-5.

4.The District Revenue Officer,
Madurai District, Madurai.

5.The Tahsildhar, Melur Taluk, Madurai District.

+2 CC to M/s.RAJA.KARTHIKEYAN, Advocate (SR-88265 & 88266 [F] dated 20/09/2019)

+1cc to Spl.Govt. Pleader, SR.No. 88398

+1cc to Mr.Na.Palaniyandi,Advocate, SR.No. 87901

W.P.(MD) Nos.16003, 16008 & 15904 of2019
and

W.M.P.(MD) Nos.12699, 12706 & 12628 of 2019
19.09.2019

JMN(04.10.2019) 4P : 10C

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