



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.07.2019

CORAM:

**THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU
AND**

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

**W.P(MD)Nos.15893 to 15899, 15903,15905, 15912, 15914
and 15915 OF 2019**

and

**W.M.P(MD)Nos.12617 to 12623, 12626,12631,12636,
12638, 12639 of 2019**

V.Nagarajan

S/o.Narayanasami Naidu, 420/5, Kaliasman Temple St,
Kottampatty, Melur Taluk, Madurai District

... Petitioner in WP(MD). 15893/ 2019

Umarani

D/o. Krishnan, 410/5, Kaliasman Temple St, Kottampatty,
Melur Taluk, Madurai District

... Petitioner in WP(MD). 15894/ 2019

Akbar Ali Jalal Deen,

S/o.Jalaldeem, 352/5, Kaliasman Temple St, Kottampatty,
Melur Taluk, Madurai District

... Petitioner in WP(MD). 15895/ 2019

S.Thangaraj

S/o.Shelladurai, 308/5, Kaliasman Temple St, Kottampatty,
Melur Taluk, Madurai District

... Petitioner in WP(MD). 15896/ 2019

A.Krishnammal,

W/o.Azhwar Naidu, 5/258 Pallivasal St, Kottampatty,
Melur Taluk, Madurai District

<https://hcservices.ecourts.gov.in/hcservices/>

... Petitioner in WP(MD). 15897/ 2019



A.Sundara Mahalingam

S/o. Ananda Pandaram,

367/5, Kaliasman Temple St., Kottampatty, Melur Tk, Madurai-103

... Petitioner in WP(MD). 15898/ 2019

M.Murugesan,

S/o.Mookaiah, 315/5, Kaliasman Temple St, Kottampatty,

Melur Taluk, Madurai District

... Petitioner in WP(MD). 15899/ 2019

S.Kamila

W/o. Sajudeen, 376, Kaliasman Temple St., Kottampatty,

Melur Tk, Madurai-103

... Petitioner in WP(MD). 15903/ 2019

Chinnammal

W/o. Chinnakalai, 289/5, Panchayat Union Office Rd,

Kottampatty, Melur Tk, Madurai-103

... Petitioner in WP(MD). 15905/ 2019

S.Kavitha

W/o.D.Subbiramani, 233/5, Panchayat Union Office Road,

Kottampatty, Melur Taluk, Madurai District

... Petitioner in WP(MD). 15912/ 2019

J.Rajendran,

S/o.Jeyaraman, 242, Mettukadai, Kottampatty,

Melur Taluk, Madurai District

... Petitioner in WP(MD). 15914/ 2019

Mohammed Ismayil

S/o.Abdulsalam, 5-479, Thotichiyamman Kovil St.,

Kottampatty, Melur Taluk, Madurai District

... Petitioner in WP(MD). 15915/ 2019



VS

1. The Commissioner

The Commissionerate of Land Administration,
Chepauk, Chennai

2. The District Revenue Officer,
Madurai District, Madurai

3. The Tahsildar,
Melur Taluk, Madurai District

4. The Commissioner,
Kottampatty Panchayat Union,
Kottampatty, Madurai District

... Respondents in WP(MD).15893 to 15899,
15903 and 15905 of 2019

1. The Commissioner

Commissionerate of Land Administration,
Chepauk, Chennai

2. The District Collector,
Madurai

3. The District Revenue Officer,
Madurai District

4. The Tahsildhar,
Melur Taluk, Madurai District

5. The Commissioner,
Panchayat Union, Kottampatti, Madurai District

... Respondents in WP(MD). 15912,
15914 and 15915 of 2019

Prayer in WP(MD). 15893/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Calling for the records pertaining to the 4th respondent impugned order in Na.Ka.No.1164/2017/A-4 dt.03.07.2019 to quash the same as illegal and consequential direct the 2nd respondent to issue patta to him by re-classifying his possessed lands and its extent of 0.00.15 Sq meters situated in S.NO.264 Kottampatty Village, Melur Taluk, Madurai District according to law.

**Prayer in WP(MD) . 15894/ 2019 :**

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Calling for the records pertaining to the 4th respondent impugned order in Na.Ka.No.1164/2017/A-4 dt.03.07.2019 to quash the same as illegal and consequential direct the 2nd respondent to issue patta to her by re-classifying her possessed lands and its extent of 0.00.83 Sq meters situated in S.NO.264 Kottampatty Village, Melur Taluk, Madurai District according to law.

Prayer in WP(MD) . 15895/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Calling for the records pertaining to the 4th respondent impugned order in Na.Ka.No.1164/2017/A-4 dt.03.07.2019 to quash the same as illegal and consequential direct the 2nd respondent to issue patta to him by re-classifying his possessed lands and its extent of 0.01.35 Sq meters situated in S.NO.264 Kottampatty Village, Melur Taluk, Madurai District according to law.

Prayer in WP(MD) . 15896/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Calling for the records pertaining to the 4th respondent impugned order in Na.Ka.No.1164/2017/A-4 dt.03.07.2019 to quash the same as illegal and consequential direct the 2nd respondent to issue patta to him by re-classifying his possessed lands and its extent of 0.01.09 Sq meters situated in S.NO.264 Kottampatty Village, Melur Taluk, Madurai District according to law.

Prayer in WP(MD) . 15897/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Calling for the records pertaining to the 4th respondent impugned order in Na.Ka.No.1164/2017/A-4 dt.03.07.2019 to quash the same as illegal and consequential direct the 2nd respondent to issue patta to him by re-classifying his possessed lands and its extent of 0.00.92 Sq meters situated in S.NO.264 Kottampatty Village, Melur Taluk, Madurai District according to law.

Prayer in WP(MD) . 15898/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Calling for the records pertaining to the 4th respondent impugned order in Na.Ka.No.1164/2017/A-4 dt.03.07.2019 to quash the same as illegal and consequential direct the 2nd respondent to issue patta to her by re-classifying her possessed lands and its extent of 0.00.91 Sq meters situated in S.NO.264 Kottampatty Village, Melur Taluk, Madurai District according to law.

**Prayer in WP(MD) . 15899/ 2019 :**

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Calling for the records pertaining to the 4th respondent impugned order in Na.Ka.No.1164/2017/A-4 dt.03.07.2019 to quash the same as illegal and consequential direct the 2nd respondent to issue patta to him by re-classifying his possessed lands and its extent of 0.01.15 Sq meters situated in S.NO.264 Kottampatty Village, Melur Taluk, Madurai District according to law.

Prayer in WP(MD) . 15903/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Calling for the records pertaining to the 4th respondent impugned order in Na.Ka.No.1164/2017/A-4 dt.03.07.2019 to quash the same as illegal and consequential direct the 2nd respondent to issue patta to her by re-classifying her possessed lands and its extent of 0.01.09 Sq meters situated in S.NO.264 Kottampatty Village, Melur Taluk, Madurai District according to law.

Prayer in WP(MD) . 15905/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Calling for the records pertaining to the 4th respondent impugned order in Na.Ka.No.1164/2017/A-4 dt.03.07.2019 to quash the same as illegal and consequential direct the 2nd respondent to issue patta to her by re-classifying her possessed lands and its extent of 0.00.78 Sq meters situated in S.NO.264 Kottampatty Village, Melur Taluk, Madurai District according to law.

Prayer in WP(MD) . 15912, 15914 and 15915 of 2019 :

Writ Petitions are filed under Article 226 of the Constitution of India, praying this Court Call for the records pertaining to the impugned order of the 5th respondent dt.03.07.2019 in Na.Ka.No.1164/2017/A4 and quash the same and consequently direct the respondent to grant assignment Patta/House site of the petitioner as per proceedings dt.09.01.2018 in Na.Ka.F2/29136/17.

For Petitioner in WP(MD) Nos.15894 to 15899,
15903 and 15905 of 2019
:Mr.A.Prasanna Rajadurai
for Mr.S.Muthal Raj

For Petitioner in WP(MD) Nos.15912, 15914 and
15915 of 2019
: MR.J. Anandkumar

For Respondents :Mr.VR.Shanmuganathan
Special Govt.Pleader

**COMMON ORDER**

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

All these Writ Petitions are filed by the individual Writ Petitioners challenging the notice issued by the Commissioner, Kottampatty Panchayat Union, Kottampatty, dated 3.7.2019, under Section 131(2) of the Tamil Nadu Panchayat Act, wherein and whereby, the Writ Petitioners were called upon to vacate the encroachments made in S.No.264 of Kottampatty Village on or before 18.07.2019, with further indication that failing to do so, will result in removal of encroachment by the authorities themselves.

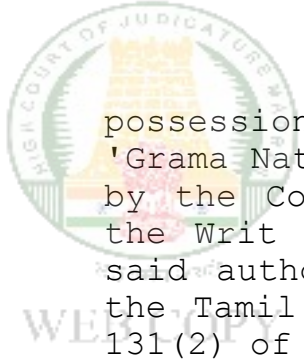
2.Heard the learned counsel appearing for the Writ Petitioners and the learned Special Government Pleader appearing for the respondents

3.The main grievance of the Writ Petitioners is that they are not encroachers of any water body or water course, much less the one referred to in the impugned notice and therefore, the authority who issue the impugned notice, has failed to consider the factual aspects of the matter. According to them, they are in possession and enjoyment of the property for long number of years, which is classified as 'Grama Natham', over which, the fourth respondent is not having jurisdiction.

4.On the other hand, the learned Special Government Pleader appearing for the respondents contended that though the impugned notice refers to S.No.264, as the property encroached upon by the Petitioners, in particular, S.No.264/12B2 is the property which is classified as 'Oorani' and is in occupation of the Petitioners by way of encroachment. Therefore, he contended that the above contention of the Petitioners is not sustainable. He also contended that before issuing the impugned proceedings, a notice was issued on the individual Writ Petitioners to show-cause, which they failed to respond.

5.Heard both sides and perused the materials placed before this Court.

6.According to the Writ Petitioners, they are in possession and enjoyment of the property which is classified as 'Grama Natham'. On the other hand, it is claimed by the respondents that the property in possession and enjoyment of the Petitioners by way of encroachment is situated in S.N o.264/12B2 of Kottampatty Village. Perusal of the revenue records placed before this Court clearly indicates that S.No.264/12B1 alone is classified as 'Grama Natham', whereas, S.No.264/12B2 is classified as 'Oorani'. Therefore, it is for the Revenue Authorities to issue proper notice to the Petitioners under Tamil Nadu land Encroachment Act and thereafter to proceed in accordance with law, after considering the claim made by the Petitioners as to whether they are in



possession and enjoyment of the property which is classified as 'Grama Natham' or 'Oorani'. In any event, since such notice issued by the Commissioner of Kottampatty Panchayat Union is opposed by the Writ Petitioners, the next course of action available to the said authority is to resort to the procedures contemplated under the Tamil Nadu Land Encroachment Act, as stipulated under Section 131(2) of the Tamil Nadu Panchayat Act.

7. Therefore, all the Writ Petitions are disposed of, granting liberty to the Commissioner, Kottampatty Panchayat Union, Kottampatty as well as the Tahsildar, Melur Taluk, Madurai District to resort to the procedures contemplated under the Tamil Nadu Land Encroachment Act by issuing notice under Section 7 of the Tamil Nadu Land Encroachment Act and thereafter to proceed with the same in accordance with law and pass appropriate orders after hearing the Petitioners. Such notice shall be issued to the Writ Petitioners by the Tahsildar, Melur Taluk, Madurai District within a period of two weeks from the date of receipt of a copy of this order. On receipt of such notice, it is open to the Petitioners to make their objections, if any, before the Tahsildar, Melur Taluk, Madurai District within a period of two weeks thereafter. On receipt of the objections, the Tahsildar, Melur Taluk, Madurai District shall consider the same and pass appropriate orders in accordance with law, by way of a speaking order, under Section 6 of the Tamil Nadu Land Encroachment Act, 1905, within a period of four weeks thereafter. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (C.O.)

// True Copy //

Sub Assistant Registrar (CS)

vsn

To

1. The Commissioner,
The Commissionerate of Land Administration,
Chepauk, Chennai-5.

2. The District Collector,
Madurai.



3.The District Revenue Officer,
Madurai District, Madurai.

4.The Tahsildar,
Melur,
Madurai District.

5.The Commissioner,
Kottampatty Panchayat Union,
Kottampatty,
Madurai District.

9CC'S TO MR. Na.PALANIYANDI, ADVOCATE SR 76758 TO 76765 AND 76767

3CC'S TO MR.J. ANANDKUMAR, ADVOCATE SR 76660 TO 76662

1CC TO THE SPL GOVT PLEADER SR 76890, 76893, 76894, 76945

COMMON ORDER MADE IN
W.P(MD)NOS.15893 to 15899,
15903,15905, 15912, 15914 and 15915 OF 2019

and

W.M.P(MD)Nos.12617 to 12623, 12626,
12631,12636, 12638, 12639 of 2019

22.07.2019

TR(09.08.2019) 8P 19C