



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.07.2019

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

and

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P. (MD) Nos.16713; 16717; 16718 and 16721 of 2019

and

W.M.P. (MD) Nos.13322; 13324; 13325 and 13327 of 2019

P.Muthu	: Petitioner in W.P. (MD) No.16713 of 2019
P.Subramani	: Petitioner in W.P. (MD) No.16717 of 2019
Sekar	: Petitioner in W.P. (MD) No.16718 of 2019
S.A.Ranjendran	: Petitioner in W.P. (MD) No.16721 of 2019

Vs.

1. The Thasildhar,
Musiri Taluk, Trichy District.

2. The Special Officer/
Block Development Officer,
Sithampur Panchayat Union,
Musiri Taluk, Trichy District.

: Respondents in all the Writ Petitions

COMMON PRAYER: Writ Petitions are filed under Article 226 of the Constitution of India, to issue a writ of Certiorari Mandamus Calling for the records of the second respondent dated 08.07.2019 in proceedings Na.Ka.No.a1/673/2018, quash the same, as the same is arbitrary, ultravires, contrary to the principles of natural justice, and consequentially direct the second respondent to measure the properties comprised in S.No.41/5 and S.No.42, Sithampur Village, Musiri Taluk, Trichy District.

For Petitioners in all
writ petitions

: Mr.R.G.Shankar Ganesh

For Respondents in

all the writ petitions

: 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.**]

All these writ petitions are filed challenging the proceedings of the Block Development Officer, viz., the second respondent, dated 08.07.2019 issued under Section 6 of the Tamil



Nadu Land Encroachment Act, 1905, wherein and whereby the respective writ petitioners were called upon to vacate the encroachments made at the respective survey numbers within a period of seven days from the date of receipt of copy of the said notice.

2.Mr.V.R.Shanmuganathan, learned Special Government Pleader takes notice for the respondents and by consent, the writ petitions are taken up for final disposal at the admission stage itself, since the issue involved in these cases can be considered and decided without counter.

3.These petitioners claimed to be in possession and enjoyment of the subject matter property. Their main grievance of the petitioners against the impugned proceedings is that they were not put on notice before issuing the impugned order. It is also submitted by the learned counsel for the petitioners that there is a dispute with regard to the identification of the property as well.

4.A careful perusal of the impugned proceedings would show that the same was issued under Section 6 of the Tamil Nadu Land Encroachment Act, 1905. The second respondent has issued such proceedings. Needless to state that power to initiate proceedings under the Land Encroachment Act, is vested on the Revenue authorities and therefore, the second respondent viz., the Block Development Officer is not justified in invoking such power and issuing the impugned proceedings. However, there is no dispute to the fact that the second respondent is vested with power to initiate action to remove the encroachment by resorting to the procedure contemplated under Section 131(2) of the Tamil Nadu Panchayat Act, 1994.

5.The learned Special Government Pleader appearing for the respondents fairly accepted the above position that the second respondent can resort to the procedure contemplated under Section 131(2) of the Tamil Nadu Panchayat Act, 1994 and that the present impugned proceedings itself can be treated as the notice issued under the said provision of Law.

6.Considering the above stated facts and circumstances and without expressing any view on the merits of the claim made by the petitioners, these writ petitions are disposed of as follows:-

(a).Both the parties are directed to treat the impugned proceedings as the notice issued under Section 131(2) of the Tamil Nadu Panchayat Act, 1994.

(b).The petitioners are directed to furnish their objection/reply to the said notice within a period of two weeks from the date of receipt of a copy of this order.

(c).On receipt of such reply/objection, the second respondent shall pass appropriate orders on merits and in accordance with law, within a period of four weeks thereafter.



(d).If the second respondent, after receipt of the objections and considering the same, comes to a conclusion that these petitioners are encroachers and they are to be removed, it is open to the second respondent to resort to the remedies provided under the Tamil Nadu Land Encroachment Act, 1905, through the Revenue officials as provided under Sections 7 and 6 of the said Act.

No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Thasildhar,
Musiri Taluk, Trichy District.

2.The Special Officer/
Block Development Officer,
Sithampur Panchayat Union,
Musiri Taluk, Trichy District.

+1 CC to Mr.R.G.SHANKAR GANESH, Advocate (SR-78647[F] dated 30/07/2019)

+1 CC to SPL GP (SR-78910[F] dated 31/07/2019)

**W.P. (MD) Nos.16713; 16717;
16718 and 16721 of 2019
30.07.2019**

RJ2

MK (08.08.2019) 3P 5C