



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **28.08.2019**

CORAM:

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

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P(MD)NO.18588 OF 2019

and

W.M.P(MD)Nos.14968 and 14969 of 2019

- 1.A.Anandan
- 2.S.Anandan
- 3.S.Meenakshi
- 4.A.Lakshmi
- 5.P.Rasu
- 6.S.Malathi
- 7.M.Subbaiya
- 8.C.Karuthakannu
- 9.R.Nallammal
- 10.M.Manimaran
- 11.M.Eswari
- 12.Chinnammal
- 13.C.Duraisamy
- 14.C.Aarumugam
- 15.S.Eswari
- 16.C.Ponnammal
- 17.D.Saamikannu
- 18.M.Mahadevan



19.D.Murugesan

:Petitioners

.vs.

1.The District Collector,
Pudukkottai District,
Pudukkottai.

2.The Tahsildar,
Viralimalai Taluk,
Viralimalai,
Pudukkottai District.

3.The Commissioner/Block Development Officer,
Viralimalai Panchayat Union,
Viralimalai,
Pudukkottai District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the impugned order passed by the second respondent vide Na.Ka.No.5100/2018/A2, dated 29.7.2019 and to quash the same as illegal and direct the respondents to issue regular patta to the Petitioners in S.No.40, Kasavanur Village Group, Kodumpalur Chattiram, Viralimalai Taluk, Pudukkottai District after conducting proper enquiry and inspection in consonance with the Revenue Standing Orders and other Government Orders.

For Petitioners

:Mr.Raja Karthikeyan

For Respondents
1 and 2

:Mr.M.Karuppasamy
Govt.Advocate

For Respondent-3

:Mr.S.Dhayalan
Government Advocate

O R D E R

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

Mr.M.Karuppasamy, learned Government Advocate takes notice for the respondents 1 and 2 and Mr.S.Dhayalan, learned Government Advocate takes notice for the third respondent.

2.By consent of both parties, the main Writ Petition itself is taken up for final disposal at the admission stage itself.

3.The Petitioners are aggrieved against the proceedings of the second respondent, dated 29.7.2019 through which they are called



upon to remove the encroachment made at S.No.40, Kasavanur Village Group, Kodumpalur Chattiram, Viralimalai Taluk, Pudukkottai District.

4. Heard the learned counsel for the Petitioners and the learned counsels appearing for the respondents.

5. It is seen that these Petitioners are in occupation and enjoyment of the properties situated at S.No.40, Kasavanur Village Group, Kodumpalur Chattiram, Viralimalai Taluk, Pudukkottai District by putting up some construction therein. When an attempt was made to demolish the constructions by the Revenue Officials, these Petitioners approached this Court and filed W.P(MD)Nos.21277 to 21294 of 2018 seeking for a mandamus to forbear the respondents 1 to 3 therein from demolishing the Petitioners' house otherwise than by following the due process of law. The Petitioners have also sought for personal hearing. The said Writ Petitions were disposed of on 10.10.2018 by directing the official respondents to proceed against the encroachments in respect of S.No.40 of Kasavanur Village Group, Kodumpalur Chattiram, Viralimalai Taluk, Pudukkottai District only after giving them personal hearing on the basis of their representation, dated 1.2.2018. Thereafter, a notice of hearing was issued on 2.7.2019 fixing the date of hearing as 19.7.2019. It is seen that these Petitioners have filed their objections during the enquiry and thereafter, the present impugned order was passed. The main contention of the Petitioners in this Writ Petition is that the second respondent has not considered any of the objections raised by the Petitioners while passing the impugned order, except to state that these Petitioners are encroachers. The learned counsel for the Petitioners invited our attention to the objections made by the Petitioners in writing to contend that the claim of the respondents that the property in occupation of the Petitioners is an water body, is factually incorrect. We are not inclined to express any view on the merits of the above contentions raised by the Petitioners at this stage, since We are inclined to remit the matter back to the second respondent for reconsidering the whole issue afresh by considering the representation submitted by the Petitioners and by passing a speaking order, as we find that the present impugned order does not discuss any of the contentions raised by the Petitioners and the reasons for rejecting the same. Therefore, only on the ground that the impugned order is a non speaking one, we are inclined to set aside the same and remit the matter back to the second respondent for reconsidering the matter and to pass orders afresh.

6. Accordingly, this Writ Petition is allowed and the impugned



order is set aside and the matter is remitted back to the second respondent for passing a speaking order afresh on merits and in accordance with law, as we are not expressing any view on the merits of the claim made by the Petitioners. Such exercise shall be done by the second respondent within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)

vsn

To

- 1.The District Collector,
Pudukkottai District,
Pudukkottai.
- 2.The Tahsildar,
Viralimalai Taluk,
Viralimalai,
Pudukkottai District.
- 3.The Commissioner/Block Development Officer,
Viralimalai Panchayat Union,
Viralimalai,
Pudukkottai District.

+1 CC to M/s.RAJA.KARTHIKEYAN., Advocate (SR-83852[F] dated 28/08/2019)

+1 CC to M/s.SPL GP (SR-84004[F] dated 28/08/2019)

ORDER MADE IN
W.P (MD) NO.18588 OF 2019
and
W.M.P (MD) Nos.14968 and
14969 of 2019
28.08.2019

KM/(13.09.2019) 4P 6C