



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **16.09.2019**
CORAM:

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE Mrs.JUSTICE R.THARANI

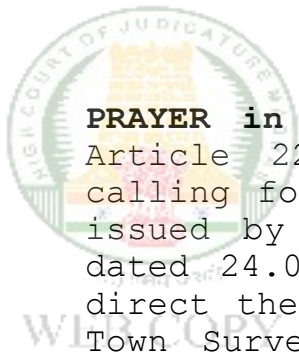
W.P. (MD) .Nos.19872 to 19879 of 2019
and
W.M.P. (MD) .Nos.16379 to 16386 of 2019

R.Ganesamurthy	... Petitioner in W.P. (MD) No.19872/2019
P.Pushpavalli	... Petitioner in W.P. (MD) No.19873/2019
P.Logambal	... Petitioner in W.P. (MD) No.19874/2019
R.Muthusamy	... Petitioner in W.P. (MD) No.19875/2019
V.Vijayalakshmi	... Petitioner in W.P. (MD) No.19876/2019
Muthulakshmi	... Petitioner in W.P. (MD) No.19877/2019
M.Bose	... Petitioner in W.P. (MD) No.19878/2019
Vasantha	... Petitioner in W.P. (MD) No.19879/2019

Vs.

- 1.The Station Commandant
Station Headquarters, Indian Army,
Garuda Lines, Trichy-620 001.
- 2.The District Collector,
Collectorate Building,
Trichy District.
- 3.The Commissioner,
Trichy Municipal Corporation,
Trichy.
- 4.The Tahsildar,
Trichy West Taluk,
Trichy.
- 5.The Assistant Director,
Survey and Land Records Department,
Trichy.

... Respondents in W.P. (MD) .No.19872
to 19879 of 2019



PRAYER in W.P. (MD) .No.19872 of 2019: This petition is filed under Article 226 of the Constitution of India, praying this court calling for the records pertaining to the impugned eviction notice issued by the first respondent in his proceedings in STA/662/Q, dated 24.08.2019 and quash the same as illegal and consequently, direct the 3rd and 4th respondents to make necessary entries in the Town Survey Register with regard to Sub Division of T.S.No.6/7, Block No.21, Ward AC, Trichy Corporation as per the proceedings under Section 9(2) of Tamil Nadu Survey and Boundaries Act, 1923 issued by the 5th respondent dated 18.08.2003 and for other reliefs.

Prayer in WP(MD) . 19873/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to calling for the records pertaining to the impugned eviction notice issued by the 1st respondent in his proceedings in STA/662/Q, dated 24.08.2019 and quash the same as illegal and consequently direct the 3rd and 4th respondents to make necessary entries in the Town Survey Register with regard to Sub Division of T.S.NO.6/10, Block no.21, Ward AC, Trichy Corporation as per the proceedings under section 9(2) of Tamil nadu survey and boundaries act 1923, issued by the 5th respondent dated 18.08.2003 and for other reliefs

Prayer in WP(MD) . 19874/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Calling for the records pertaining to the impugned Eviction Notice issued by the 1st respondent in his proceedings in STA/662/Q dt.24.8.2019 and quash the same as illegal and consequently direct the 3rd and 4th respondent to make necessary entries in the Town Survey Register with regard to Sub Division of T.S.NO.6/3, Block No.21, Ward AC, Trichy Corporation as per the Proceedings U/s.9(2) Tamilnadu Survey and Boundaries Act, 1923 issued by the 5th respondent dt.18.8.2003 and for other reliefs.

Prayer in WP(MD) . 19875/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Calling for the records pertaining to the impugned Eviction Notice issued by the 1st respondent in his proceedings in STA/662/Q dt.24.8.2019 and quash the same as illegal and consequently direct the 3rd and 4th respondent to make necessary entries in the Town Survey Register with regard to Sub Division of T.S.NO.6/5, Block No.21, Ward AC, Trichy Corporation as per the Proceedings U/s.9(2) Tamilnadu Survey and Boundaries Act, 1923 issued by the 5th respondent dt.18.8.2003 and for other reliefs.



Prayer in WP(MD) . 19876/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Calling for the records pertaining to the impugned Eviction Notice issued by the 1st respondent in his proceedings in STA/662/Q dt.24.8.2019 and quash the same as illegal and consequently direct the 3rd and 4th respondent to make necessary entries in the Town Survey Register with regard to Sub Division of T.S.NO.6/4, Block No.21, Ward AC, Trichy Corporation as per the Proceedings U/s.9(2) Tamilnadu Survey and Boundaries Act, 1923 issued by the 5th respondent dt.18.8.2003 and for other reliefs.

Prayer in WP(MD) . 19877/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to calling for the records pertaining to the impugned eviction notice issued by the 1st respondent in his proceedings in STA/662/Q, dated 24.08.2019 and quash the same as illegal and consequently direct the 3rd and 4th respondents to make necessary entries in the Town Survey Register with regard to Sub Division of T.S.NO.6/8,Block no.21,Ward AC, Trichy Corporation as per the proceedings under section 9(2) of Tamil nadu survey and boundaries act 1923, issued by the 5th respondent dated 18.08.2003 and for other reliefs

Prayer in WP(MD) . 19878/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Calling for the records pertaining to the impugned Eviction Notice issued by the 1st Respondent in his proceedings in STA/662/W, dated 24-08-2019 and quash the same as illegal and consequently direct the 3rd and 4th Respondents to make necessary entries in the Town Survey Register with regard to Sub Division of T.S.No.6/6, block No.21 Ward AC Trichy Corporation as per the proceedings under section 9 (2) of Tamil Nadu Survey and Boundaries Act 1923, issued by the 5th Respondent dated 18-08-2003 and for other reliefs

Prayer in WP(MD) . 19879/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Calling for the records pertaining to the impugned Eviction Notice issued by the 1st Respondent in his proceedings in STA/662/Q, dated 24-08-2019 and quash the same as illegal and consequently direct the 3rd and 4th Respondents to make necessary entries in the Town Survey Register with regard to Sub Division of T.S.No.6/11, block No.21 Ward AC Trichy Corporation as per the proceedings under section 9 (2) of Tamil Nadu Survey and Boundaries Act 1923, issued by the 5th Respondent dated 18-08-2003 and for other reliefs.



For Petitioner
in all W.ps : Mr.J.Lawrance

For R1 : Mr.R.Karunanidhi
in all W.ps Central Government Standing Counsel

For R2, 4&5 : Mr.A.K.Baskara Pandian
in all W.Ps Special Government Pleader

For R3 : Mr.N.S.Karthikeyan
in all W.Ps Standing Counsel

ORDER

(Order of this Court was made by **T.S.SIVAGNANAM, J**)

Heard Mr.J.Lawrance, learned counsel appearing for the petitioner, Mr.R.Karunanidhi, learned Central Government Standing Counsel appearing for the first respondent, Mr.A.K.Baskara Pandian, learned Special Government Pleader appearing for the respondent Nos.2, 4 and 5 and Mr.N.S.Karthikeyan, learned Standing Counsel appearing for the third respondent.

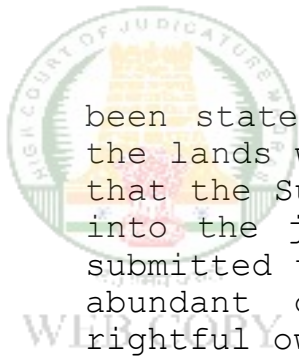
2.By consent on either side, this writ petition is taken up for disposal.

3.The petitioners seek to quash the eviction notice issued by the first respondent, whereby, the first respondent has intimated the petitioners that the land in T.S.No.6/7 is owned by the Defence Department and it was surveyed by the Survey Team of Tashildar West Office on 22.02.2019 and during the survey, it was found that the petitioners are the encroachers. Therefore, the petitioners were called upon to remove the encroachments.

4.The case of the petitioners is that the lands in question was originally classified as 'Government Poramboke' land and the land was sub-divided as T.S.No.287/29, 287/31, 287/35, 287/30, 287/33, 287/34 and 287/28 and pattas were granted to several persons.

5.According to the petitioners, the land owned by the Defence Department was also sub-divided and clearly earmarked and it has nothing to do with the property in possession of the petitioners. The petitioners' claim is that they are residing for several years and put up construction in the said property and they sought to receive impugned notice.

6.The learned counsel appearing for the petitioners has drawn our attention to the Survey Report dated 24.11.2014 wherein, it has



been stated that necessary correction has been effected insofar as the lands which are sub-divided in T.S.No.6. It is further submitted that the Survey Report was not implemented as by then, the land fell into the jurisdiction of the Trichy Corporation. Therefore, it is submitted that the petitioners are not the encroachers and there are abundant documents to establish that the petitioners are the rightful owners of the land in question.

7.In our considered view, the dispute regarding the classification of the land, the sub-division etc., cannot be gone into in the writ petition. In the impugned notice, there is a reference to the survey conducted on 22.06.2019, it is not clear as to whether the petitioners/occupants of the area were informed about the said survey and whether any notice of such survey was issued to them. In any event, the petitioners claim that they are in possession of the land for several years and constructed a residential house. Therefore, it would be appropriate that a comprehensive survey is conducted in the presence of the petitioners and well as in the presence of the Officials of the first respondent/Department, the officers are the Trichirapalli Municipality Corporation and such survey shall be organised by the 4th and 5th respondents after giving due notice to all the parties, it will be open to the first respondent to take appropriate action in accordance with law subject, to the outcome of the Survey Report.

8.The learned counsel for the petitioners submitted that the Sub-Division having been effected under the provision of Tamil Nadu Survey and Boundaries Act. If at all the first respondent/Department is aggrieved, they are required to file an appeal under such statute.

9.In our view, this contradiction need not be gone into at this stage, as it is premature and the comprehensive survey is required to be done at the first instance. Therefore, while directing the impugned notice to be kept in abeyance, we direct the respondents 4 and 5 to organise for a comprehensive survey after notice to the Officers of the first respondent, officers of the Trichy Municipal Corporation and the petitioners. This direction shall be complied by the fourth and the fifth respondents within a period of three months from the date of receipt of a copy of this order. The petitioners are directed to extend their full co-operation for the survey and we leave it open to the parties to work out their remedies subject to the out come of the Survey Report.

10.With the above directions, these Writ Petitions stand disposed of. It is open to the petitioners to produce all the



documents, photographs and proceedings in support of their claim before the respondents 4 and 5. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar (CS)

To

- 1.The Station Commandant
Station Headquarters, Indian Army,
Garuda Lines, Trichy-620 001.
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Trichy.
- 4.The Tahsildar,
Trichy West Taluk,
Trichy.
- 5.The Assistant Director,
Survey and Land Records Department,
Trichy.

+1 CC to Mr.N.S. KARTHIKEYAN, Advocate (SR-87023[F] dated 17/09/2019)

+8 CC to Mr.J.LAWRANCE, Advocate SR-
87186,87185,87184,87183,87182,87181,87180,87179

+1 CC to SPL GP (SR-87251[F] dated 17/09/2019)

+1 CC to Mr.M.KARUNANITHI, Advocate (SR-86790[F] dated 16/09/2019)

W.P. (MD) .Nos.19872 to 19879 of 2019
and

W.M.P. (MD) .Nos.16379 to 16386 of 2019
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ns

MK (21.10.2019) 6P 17C