



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE R.THARANI

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W.P(MD) Nos.21295, 21299, 21301, 21304 and 21308 of 2019

and

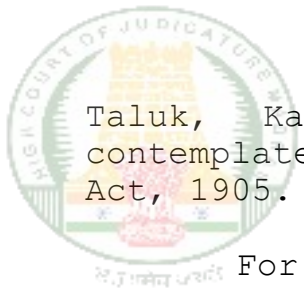
W.M.P. (MD) Nos.17961, 17963 and 17965 to 17967 of 2019

G.Valsala Bai	..	Petitioner in W.P.(MD)No.21295 of 2019
B.Sree Devi	..	Petitioner in W.P.(MD)No.21299 of 2019
S.Sri Kala	..	Petitioner in W.P.(MD)No.21301 of 2019
A.Sreela	..	Petitioner in W.P.(MD)No.21304 of 2019
V.Gopalan Nair	..	Petitioner in W.P.(MD)No.21308 of 2019

Vs.

- 1.The District Collector,
O/o.The District Collector,
Nagercoil, Kanyakumari District.
- 2.The District Revenue Officer,
Nagercoil, Kanyakumari District'.
- 3.The Revenue Divisional Officer,
O/o. The Revenue Divisional Office,
Nagercoil, Kanyakumari District.
- 4.The Tahsildhar,
Boothapandi,
Thovalai Taluk,
Kanyakumari District.
- 5.The Zonal Deputy Tahsildhar,
O/o. The Zonal Deputy Tahsildhar Office,
Nagercoil,
Kanyakumari District.
- 6.The Revenue Inspector,
Azhagiyapandiya Puram,
Thovalai Taluk,
Kanyakumari District. .. Respondents in all petitions

COMMON PRAYER: Writ Petitions are filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, to forbear the respondents from evicting the petitioner from her house in S.No.40/3, in an extent of above 5 ½, 5, 6, 5 and 6 cents in Azhagiyapandiyapuram, Thadikkarankonam Village, Thovalai



Taluk, Kanyakumari District without following the procedure contemplated under Section 6 of the Tamil Nadu Land Encroachment Act, 1905.

For Petitioners : Mr.T.Lajapathi Roy
For Respondents : Mr.A.K.Baskara Pandian
Special Government Pleader
(in all petitions)

COMMON ORDER

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

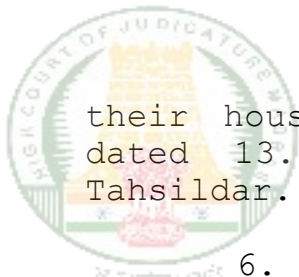
Heard Mr.T.Lajapathi Roy, learned counsel appearing for the petitioners, Mr.A.K.Baskara Pandian, learned Special Government Pleader for the respondents. By consent on either side, these writ petitions are taken up for final disposal.

2. The petitioners have filed these writ petitions to forbear the respondents from evicting the petitioners from their houses, which they constructed in the land owned by them, without following the procedure contemplated under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 (hereinafter referred to as 'the Act').

3. In our considered view, these writ petitions are premature, because the petitioners have given their objections to the notices issued under Section 7 of the Act on 13.09.2019 and the said objections have already been submitted before the District Collector, Kanyakumari District and the District Revenue Officer Kanniyakumari District. The postal acknowledgment shows that the objections have been received in the office of the said authorities.

4. It is submitted by the learned counsel for the petitioners that in the year 2007, the Public Works Department have given their No Objection Certificates for grant of free house site patta to the occupants of the land in Serial No.40/3, but the same was not materialised. Nevertheless, the petitioners have been residing all these years and constructed pucca houses. They are paying house tax and they have been granted electricity service connection. The learned counsel for the petitioners enclosed photographs in the typed set of papers, which show that pucca houses have been constructed in the area and it appears to be in existing for quite some time. The petitioners have also produced copies of their family card issued in the year 2005, Adar card, Voter ID card etc., to show their continuous occupation.

5. The learned counsel for the petitioners submitted that there is power vested with the authorities to grant patta as the Government has recently issued an order in G.O.Ms.No.318, Revenue Department, dated 30.08.2019. As pointed out by us earlier, we find



their houses, because, the objections given by the petitioners, dated 13.09.2019 are now still pending consideration of the Tahsildar.

6. The learned Special Government Pleader appearing for the respondents submitted that the proceedings have been initiated under the provisions of the Act and the same will be done in a proper manner, after affording an opportunity to the petitioners. However, apart from the dwelling house, the other vacant land is also being encroached, trees and crops have been planted therein by the petitioners.

7. The learned counsel for the petitioners, on instructions, would submit that the petitioners confined their prayer only with regard to the dwelling house.

8. This submission made by the learned counsel for the petitioners is taken on record. Therefore, we dispose of these writ petitions by directing the respondents not to take any coercive action against the petitioners, in respect of the dwelling houses and direct the Tahsildar to conduct enquiry, consider the objections given by the petitioners on 13.09.2019, afford an opportunity of personal hearing to the petitioners or their authorized representative and take a decision on merits and in accordance with law. The prayer made by the petitioners for grant of patta is an independent cause of action, which the petitioners may pursue their remedy before the District Collector. So far as the vacant land is concerned, we direct the respondents to take possession of the same, fence the area and use it for the purpose, which the Government decides as there is a proposal to construct a veterinary hospital in that area.

9. With the above direction, these writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CO)

// True Copy //

Sub Assistant Registrar(CS)

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To

1.The District Collector,
O/o.The District Collector,
Nagercoil, Kanyakumari District.



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6.The Revenue Inspector,
Azhagiyapandiya Puram,
Thovalai Taluk,
Kanyakumari District.

+5CC TO MR.T.LAJAPATHI ROY, Advocate Sr. No.91675 TO 91679
+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No.91657

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NS (CO)
TR(16.10.2019) 4P 13C