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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

W.P (MD)Nos.21231, 21247, 21253 and 21259 of 2019
and

W.M.P. (MD)Nos.17892, 17893, 17908, 17910, 17915,
17916, 17921, 17922 of 2019

Rajendran	... Petitioner in W.P.(MD)No.21231 of 2019
Shanthi	... Petitioner in W.P.(MD)No.21247 of 2019
Priya	... Petitioner in W.P.(MD)No.21253 of 2019
Mani	... Petitioner in W.P.(MD)No.21259 of 2019

Vs.

1. The District Collector,
Madurai District,
Madurai.
2. The Revenue Divisional Officer,
Melur, Office at Y.Othakadai,
Madurai District.
3. The Tahsildar,
Madurai South Taluk,
Madurai District.
4. The Block Development Officer,
Thirupparankundram Panchayat Union,
Thirupparankundram,
Madurai District.
5. The Revenue Inspector,
Madurai East Inner Circle,
Madurai South Taluk,
Madurai 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 Certiorari, to call for the records of the impugned order of the fourth respondent in Na.Ka.No.2765 / 2017 / T4, dated 13.09.2019 and quash the same as illegal.

For Petitioners	: Mr.M.Kannan
For R1 to R3 & R5	: Mr.M.Murugan
	Government Advocate



For R4

: Mr.K.MU.Muthu
Additional Government Pleader
(in all petitions)

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COMMON ORDER

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

Heard Mr.M.Kannan, learned counsel appearing for the petitioners, Mr.M.Murugan, learned Government Advocate for the respondents 1 to 3 and 5 and Mr.K.MU.Muthu, learned Additional Government Pleader for the fourth respondent. By consent on either side, these writ petitions are taken up for final disposal.

2. These writ petitions have been filed challenging the notice issued by the Block Development Officer, Thirupparankundram calling upon the petitioners to vacate the premises in their occupation on the ground that the land has been classified as Mayanamm.

3. There have been earlier proceedings before this Court, wherein both the petitioners as well as the Jamath had filed writ petitions in W.P.(MD)No.22357 of 2017 and W.P.(MD)Nos.965 to 968 of 2019. The Jamath contended that the present petitioners are encroachers. The petitioners have filed writ petitions stating that the notice issued by the Block Development Officer, dated 03.01.2019 is illegal and they should not be vacated. The Hon'ble Division Bench of this Court by a common order dated 24.01.2019 dispose of those writ petitions by directing both Jamath as well as the petitioners before us to give representation within a time frame and on receipt of the same, the Tahsildar was directed to conduct enquiry and pass orders on merits. The Tahsildar has complied with the direction and passed the order, dated 17.06.2019, thereby the claim of the present petitioners and others was rejected. Consequent of such order, the Block Development Officer had issued notice, dated 30.08.2019. Subsequently, the petitioners through their counsel has sent reply on 03.09.2019. Thereafter, the petitioners had filed petition before the Revenue Divisional Officer, Madurai, which has been taken on file in Na.Ka.No.3995 of 2019. It is submitted that the said appeal petitions is still pending consideration before the Revenue Divisional Officer. Subsequently, the Revenue Authorities have issued notices under Section 7 of the Tamil Nadu Land Encroachment Act. Thereafter, the impugned notices have been issued by the Block Development Officer, Thirupparankundram.

4. The said authority cannot be violated for having issued the impugned notices as there is a direction of the Hon'ble Division



Bench of this Court. In any event, if an appeal remedy is available under the statute, the Court will not be justified in preventing the aggrieved persons from availing the appeal remedy, which the petitioners have availed.

5. The learned Additional Government Pleader appearing for the fourth respondent, on instructions from the Revenue Inspector, who is present before this Court submitted that the Tahsildar is parallelly made recommendation for allotment of ready built houses in a Scheme developed by the Tamil Nadu Slum Clearance Board.

6. In our view that is separate matter and it is for the petitioners to take a call after such an offer is made. In any event, since the petitioners's appeal is pending before the Revenue Divisional Officer, we deem it fit to direct that the impugned notices shall be kept in abeyance and direct the Revenue Divisional Officer to consider the appeal petitions and pass orders on merits and in accordance with law after conducting an enquiry and also hearing the petitioners or any other persons authorized by the petitioners and after perusing the revenue records and other documents within a period of three weeks from the date of receipt of a copy of this order. Till then, the impugned notice shall be kept in abeyance.

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

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

1. The District Collector,
Madurai District,
Madurai.
2. The Revenue Divisional Officer,
Melur, Office at Y.Othakadai,
Madurai District.
3. The Tahsildar,
Madurai South Taluk,
Madurai District.



4. The Block Development Officer,
Thirupparankundram Panchayat Union,
Thirupparankundram,
Madurai District.

5. The Revenue Inspector,
Madurai East Inner Circle,
Madurai South Taluk,
Madurai District.

+1 CC to Mr.M. KANNAN, Advocate (SR-91455[F] dated 04/10/2019)
+1 CC to spl.GP (SR-91577[F] dated 04/10/2019)

W.P (MD) Nos. 21231, 21247, 21253
and 21259 of 2019
04.10.2019

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