

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 16.12.2020

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND

THE HONOURABLE MR. JUSTICE P.RAJAMANICKAM

WP.Nos.18671, 18672, 18674 & 18676/2020
and W.M.P.Nos.23180, 23181, 23184 and 23187 of 2020

Elumalai .. Petitioner in W.P.No.18671/2020
Kandhan .. Petitioner in W.P.No.18672/2020
Tamilselvan .. Petitioner in W.P.No.18674/2020
Mani .. Petitioner in W.P.No.18676/2020

Versus

- 1.The District Collector,
Tiruvannamalai District,
Tiruvannamalai.
- 2.The District Revenue Officer,
Tiruvannamalai District,
Tiruvannamalai.
- 3.The Revenue Divisional Officer,
Tiruvannamalai District,
Tiruvannamalai.
- 4.The Tahsildar,
Chengam Taluk,
Thiruvannamalai District.
- 5.The Block Development Officer,
Chengam,
Thiruvannamalai District.

6.Vijayakumar ..Respondents in all W.Ps

Prayer in W.P.No.18671/2020:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus forbearing the respondents 1 to 5 from taking any further action in removing the alleged encroachment in S.F.No.24/4B1 and 24/4B4 situated at Pinjur Village, Chengam Taluk, Thiruvannamalai District without giving the petitioner prior notice as per the directions issued by this Court in W.P.No.29624 of 2019 dated 17.10.2019 in accordance with law.

Prayer in W.P.No.18672/2020:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus forbearing the respondents 1 to 5 from taking any further action in removing the alleged encroachment in S.F.No.24/4B3 situated at Pinjur Village, Chengam Taluk, Thiruvannamalai District without giving the petitioner prior notice as per the directions issued by this Court in W.P.No.29624 of 2019 dated 17.10.2019 in accordance with law.

Prayer in W.P.No.18674/2020:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus forbearing the respondents 1 to 5 from taking any further action in removing the alleged encroachment in S.F.No.24/4B2 and 24/4B5 situated at Pinjur Village, Chengam Taluk, Thiruvannamalai District without giving the petitioner prior notice as per the directions issued by this Court in W.P.No.29624 of 2019 dated 17.10.2019 in accordance with law.

Prayer in W.P.No.18676/2020:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus forbearing the respondents 1 to 5 from taking any further action in removing the alleged encroachment in S.F.No.26/2B situated at Pinjur Village, Chengam Taluk, Thiruvannamalai District without giving the petitioner prior notice as per the directions issued by this Court in W.P.No.29624 of 2019 dated 17.10.2019 in accordance with law.

For Petitioner in all W.Ps: Mr.S.Panner Selvam

For RR 1 to 5 in all W.Ps : Mr.M.Elumalai
Additional Government Pleader

COMMON ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J. through video conferencing]

All the Writ Petitions are taken up and disposed of by this common order as to the issue to be decided and adjudicated is one and the same. The petitioners claim to be the absolute owner of the landed property in S.F.No.24/4B1, S.F.No.24/4B3, S.F.No.24/4B2 and S.F.No.26/2B, respectively of Pinjur Village, Chengam Taluk, Thiruvannamalai District and claim to be in possession and enjoyment of the same.

2. The learned counsel appearing for the petitioner would submit that the 6th respondent, on an earlier occasion, filed W.P.No.29624/2019, against the official respondents as well as against the private respondents, which include the petitioner

herein, praying for Writ of Mandamus directing the official respondents 1 to 5 to remove the encroachment made in S.F.Nos.7, 24 and 26 situate at Pinjur Village, Chengam Taluk, Thiruvannamalai District and restore the channel to it's original width and grant such other relief. The Writ Petition came to be disposed of on 17.10.2019 and it is relevant to extract paragraph no.5:

'5. This Court, taking into consideration, the above facts and circumstances and also the materials and without going into the merits of the claim projected by the petitioner, either in his representation or in this writ petition, directs the 5th respondent/Block Development Officer, to act on the communication of the District Rural Development Agency, Tiruvannamalai, dated 26.10.2018 in Na.Ka.No.198/2017/A4 and tak appropriate action in accordance with law by adhering to the principles of natural justice and the decision taken in that regard shall be communicated to the petitioner as well as to the private respondents and such exercise is to be carried out within a period of ten weeks from the date of receipt of a copy of this order.'

3. The learned counsel appearing for the petitioners would submit that in utter disregard and non compliance of the said directions, the officials came to the land of the petitioners on 05.11.2020, measured the same and caused enquiry and they have been informed that decision has been taken to remove the encroachments, in terms of the above cited Court order and apprehending dispossession, without recourse to due process of law, came forward to file this Writ Petition.

4. The learned counsel appearing for the petitioners would submit that in the light of the fact that the petitioners had traced their title through Sale Deed, it is not open to the official respondents to straight away dispossess them, without adhering to the due process of law and prays for appropriate orders.

5. Per contra, Mr.M.Elumalai, learned Additional Government Pleader accepts notice on behalf of the respondents 1 to 5 and would submit that measurements have been done to findout the exact extent of encroachments and thereafter, due process of law will be followed, for removal of encroachments caused by the petitioners.

6. This Court has carefully considered the rival submissions and also perused the materials placed before it.

7. A perusal of the typed set of documents would prima facie disclose that titles of the land in question have been traced through Sale Deed, Partition Deed, and Release Deed dated 27.05.1992, 06.09.2017, 07.09.2017 and 25.09.2017 respectively. The operative portion of the order passed in W.P.No.29624/2019, would also read that for removal of encroachment, due process of law is to be followed by adhering to the principles of natural justice.

8. As rightly pointed out by the learned Additional Government Pleader appearing for the official respondents, before causing notices under the relevant provision of law for removal of encroachments, the extent of encroachments have to be disclosed / stated in the notices and as such, the concerned act on the part of the officials cannot be faulted with. However it is made clear that the respondents, before removal of encroachments, said to have been caused by the petitioner, shall follow due process of law and by adhering to the principles of natural justice and complete the said exercise as expeditiously as possible and communicate the decision, taken to the petitioners.

9. These Writ Petitions are disposed of accordingly. No costs. Consequently connected miscellaneous petitions are closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.The District Collector,
Tiruvannamalai District,
Tiruvannamalai.

2.The District Revenue Officer,
Tiruvannamalai District,
Tiruvannamalai.

3.The Revenue Divisional Officer,
Tiruvannamalai District,
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4.The Tahsildar,
Chengam Taluk,
Thiruvannamalai District.

5.The Block Development Officer,
Chengam,
Thiruvannamalai District

+1 CC to Mr.S.Panner Selvam, Advocate sr 41429.

WP.Nos.18671, 18672, 18674 & 18676/2020

SPD(CO)
SP(20/01/2021)



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