

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 18.12.2020

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

WP.Nos.19581 & 19586/2020
and W.M.P.Nos.24197, 24199, 24202 & 24204/2020

N.Leelavathi ..Petitioner in W.P.No.19581/2020
S.Jaleela Begum ..Petitioner in W.P.No.19586/2020

Versus

1. The District Collector,
Thiruvarur District,
Thiruvarur.
2. The Tahsildar,
Needamangalam Taluk Office,
Needamangalam, Thiruvarur District.
3. The Executive Officer,
Needamangalam Town Panchayat,
Needamangalam,
Thiruvarur District. ...Respondents in both writ petitions

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned eviction notice issued by the 3rd respondent dated 24.11.2020 and quash the same and consequently to direct the 2nd respondent to issue free house patta in favour of the petitioner in respect of S.F.No.27/1 situated at No.27/B & 7, Keezha Veethi, Needamangalam, Thiruvarur District.

For Petitioner in both W.P.s: Mr.L.Chandrakumar for
Ms.Ramadevi.P.T.

For RR 1 to 3 in both W.P.s : Mr.V.Jayaprakash Narayanan
Government Pleader

COMMON ORDER

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

By consent, these writ petitions are taken together and disposed of by this common order, as the issue raised and to be decided is one and the same. Mr.V.Jayaprakash Narayanan, learned Government Pleader accepts notice on behalf of the respondents 1 to 3.

W.P.No.19581/2020:

2. The petitioner would submit that the land comprised in S.F.No.27/1, situated at Needamangalam Town Panchayat, Thiruvarur District, originally belongs to the 3rd respondent and her husband, namely, Narayanasamy was working as Clerk in the services of the 3rd respondent. The petitioner would state that the husband of the petitioner did not possess any residential house and he has submitted an application dated 14.11.1975, before the 3rd respondent for provision of vacant site for construction of dwelling superstructure and it was positively considered, in the light of Special Resolution No. 79/1975, filed dated 31.12.1975, in favour of her husband, admeasuring an extent of 53x15 in S.F.No.27/1 and the said special resolution was approved by the 3rd respondent, vide proceedings dated 20.01.1976. The husband of the petitioner, on such allotment, had put up superstructures, which came to be assigned with Door No.27/B, Keezha Veethi,, Needamangalam and it was also subjected to statutory levies. The 3rd respondent also made a positive recommendation for grant of house site patta and the request submitted in this regard has also been considered.

W.P.No.19586/2020:

3. The petitioner would submit that the land comprised in S.F.No.27/1, situated at Needamangalam Town Panchayat, Thiruvarur District, originally belongs to the 3rd respondent and her father, namely, Shakabudeen was working as Bill Collector in the services of the 3rd respondent. The petitioner would state that the father of the petitioner did not possess any residential house and he has submitted an application dated 14.11.1975 before the 3rd respondent for provision of vacant site for construction of dwelling superstructure and it was positively considered, in the light of the Special Resolution 79/1975, filed dated 31.12.1975, in favour of her father, admeasuring an extent of 53x15 in S.F.No.27/1 and the said special resolution was approved by the 3rd respondent, vide proceedings dated 20.01.1976. The father of the petitioner, on such allotment, had put up superstructures, which came to be assigned with Door No.7, Keezha Veethi,, Needamangalam and it was also subjected to statutory levies. The 3rd respondent also

made a positive recommendation for grant of house site patta and the request submitted in this regard has also been considered.

4. Mr.L.Chandrakumar, learned counsel appearing for the petitioners would submit that one Mr.Arun Selvan, who has enemically disgusted against the petitioners, had filed W.P.No.20715/2017, alleging that the petitioners had encroached upon public lands and this Court while disposing of the Writ Petition on 30.01.2020, has directed the respondents 3 and 4 to remove the encroachments, if any made by the respondents 5 and 6 therein / petitioners herein, after providing an opportunity of personal hearing to all the necessary parties.

5. The Primordial submission made by the learned counsel appearing for the petitioners is that without understanding the scope and purport of the order, the 3rd respondent had issued notices under Section 7 and 6 of the Tamil Nadu Land Encroachment Act, 1905, dated 24.11.2020 and though the petitioners have submitted detailed response on 09.11.2020, the same have not been taken into consideration and that apart, the petitioners have also submitted representations dated 10.12.2020, to the 1st respondent and till the decision is taken on the said representations, the respondents may defer further proceedings, for the reason that it is a residential house, where the petitioners are residing along with her family.

6. The learned counsel appearing for the petitioners would submit that though detailed responses have been submitted in this regard by the respective writ petitioners, without any application of mind, the 3rd respondent has blindly issued notices under Sections 7 and 6 of the Tamil Nadu Land Encroachment Act, 1905 and in the light of overwhelming materials, the petitioners are entitled to have their possession with the land and superstructure and prays for appropriate orders.

7. Per contra, Mr.V.Jayaprakash Narayanan, learned Government Pleader appearing for the respondents 1 to 3 would submit that in compliance of the order passed in W.P.No.20715/2019, dated 30.01.2020, due process of law is strictly followed and therefore, the petitioners cannot make any grievances and prays for dismissal of these Writ Petitions.

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

9. The petitioner is having an effective alternative remedy under Section 10 of the Tamil Nadu Land Encroachment Act, 1905, with provision for Stay under Section 10-B of the said Act.

10. In the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioners, either in their representations or in these writ petitions, permits the petitioners to submit individual representations by enclosing relevant and authenticated documents to the appellate authority namely the 1st respondent, along with petitions for Stay / interim relief, within a period of two weeks from the date of receipt of a copy of this order / uploading of the order in the website and upon the receipt of the same, the 3rd respondent is directed to consider the said representations on merits and in accordance with law, after affording an opportunity of personal hearing to the petitioners, and dispose of the same within a further period of eight weeks thereafter and till such time, the 3rd respondent shall defer further decision in terms of the impugned notices issued under Sections 7 and 6 of the Tamil Nadu Land Encroachment Act, 1905. It is also made clear that the petitioners till the disposal of the representations, by the 3rd respondent, shall not create any third party rights in respect of the land and superstructures in question.

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

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Thiruvarur District, Thiruvarur.

2. The Tahsildar,
Needamangalam Taluk Office,
Needamangalam, Thiruvarur District.

3. The Executive Officer,
Needamangalam Town Panchayat,
Needamangalam, Thiruvarur District.

2cc to M/s.P.T.Ramadevi, Advocate, S.R.No.42184 & 42187

WP.Nos.19581 & 19586/2020

rr ii (21/01/2021)