



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:22.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

and

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.P (MD)No.7728 of 2020

and

W.M.P. (MD)No.7215 of 2020

J.Mary Megdalin

... Petitioner

Vs.

1.The District Collector,
Tirunelveli District,
Tirunelveli.

2.The Revenue Divisional Officer,
Cheranmahadevi,
Tirunelveli District.

3.The Tahsildar,
Radhapuram Taluk,
Radhapuram, Tirunelveli District.

4.Malar

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the records pertaining to the impugned order passed by the third respondent proceedings bearing in Na.ka.No.Aa8/11178/2016, dated 12.03.2020 and quash the same as illegal and unconstitutional.

For Petitioner : Mr.T.Sundaravadanam
For R1 to R3 : Mr.Aayiram K.Selvakumar,
Additional Government Pleader

ORDER

(Order of the Court was made by M.SATHYANARAYANAN, J.)

Heard the submissions of Mr.T.Sundaravadanam, learned counsel appearing for the petitioner, who would submit that large number of people residing in the coastal areas were affected, due to a sudden natural calamity caused by 'Tsunami' in the year 2004, which included the residents of Koottapuli. The Government, in order to alleviate the sufferings and grievances undergone by the people, who got affected due to the natural calamity and each disaster, thought



fit to allot three cents of land to each of the eligible candidates, comprised in Survey Nos.360, 361, 379 and 380. The Government, on their own expenses put up construction and handed over the same to the beneficiaries, subject to certain conditions.

2.The learned Counsel appearing for the petitioner would submit that the place in which, house sites were allotted and superstructures were put up are far away from the nearest town area locality and the said place is continuously infested with venomous snakes and anti-social elements and in order to protect the inmates, the petitioner and others put up a compound wall and now, the respondents are initiating action under the provisions of the Tamil Nadu Land Encroachment Act, 1905, as if the compound wall has been put up on an encroached land.

3.By inviting the attention of this Court to the typed set of documents, the learned counsel appearing for the petitioner would further submit that in the light of the poor economic background coupled with the the problems created by COVID-19 pandemic situation, this Court may protect the interest of the poor and down-trodden people and hence, prays for appropriate orders.

4.Per contra, Mr.Aayiram K.Selvakumar, learned Additional Government Pleader appearing for the respondents 1 to 3 would submit that the Tahsildar, Radhapuram has taken into consideration the order dated 19.10.2016 passed in W.P.(MD)No.5345 of 2015 filed by Mrs.Malar and conducted a survey through the Taluk Headquarters Surveyor and found that plot Nos.2, 3, 63, 159, 160, 177 and 180, i.e 7 houses are under occupation and in respect of plot No.3, the encroachment is more than 3 cents and accordingly, took a decision to take action for removal of encroachment and as such, he prays for removal of encroachment.

5.This Court has carefully considered the rival submissions and also perused the materials placed on record.

6.When a similar matter came up for consideration in **W.P. (MD) No.7695 of 2020, dated 17.07.2020 [R.Dayana Vs. The District Collector, Tirunelveli District, Tirunelveli and three others]**, a similar plea has been put forth by the very same counsel and the said writ petition was given disposal with a direction, directing the third respondent to initiate appropriate action in accordance with law within a outer time limit. Hence, it is open to the petitioner to submit a detailed response/representation to the Revenue Thasildar, Radhapuram/third respondent and the Thasildar, while undertaking the process of eviction, may also take into consideration the said representation and take appropriate steps in accordance with law and complete the exercise as expeditiously as possible and not later than 12 weeks from the date of receipt of a copy of this order and communicate the decision taken to the



petitioner.

7.This Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

WEB COPY

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

das/vs

Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

- 1.The District Collector,
Tirunelveli District,
Tirunelveli.
- 2.The Revenue Divisional Officer,
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Tirunelveli District.
- 3.The Tahsildar,
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Radhapuram, Tirunelveli District.

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SMA/31/07/2020/3P/4C