



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.07.2020

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.P.(MD)No.7891 of 2020

and

W.M.P.(MD)Nos. 7351 and 7352 of 2020

J.Sasi Rekha

... 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 records pertaining to the impugned order passed by the 3rd 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 Respondents 1 to 3 : Mr.Aayiram K.Selvakumar
Additional Government Pleader

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**O R D E R**

[Order of the Court was made by **M. SATHYANARAYANAN, J.**]

The petitioner would state among other things that a large number of people residing in the coastal areas were affected due to natural calamity (Tsunami) in the year 2004, which includes the residents of Koottappuli. The Government extends benevolent schemes in order to alleviate their grievance and identified the eligible people to get houses and they were allotted three cents of land each and constructed superstructures in the land, which comprised in Survey Nos.360, 361, 379 and 380, Kootappuli, Levinchipurama Village, Radhapuram Taluk.

2.Mr.T.Sundaravadanam, 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.The primordial submission made by the learned counsel for the petitioner is that even assuming for the sake of convenience that the compound wall was constructed in public place it can be said as unobjectionable encroachment and the concerned authority may show some leniency in the matter taking into consideration the difficulties of the petitioner and similarly placed persons. He would further submit that since the alleged action is taken under the provisions of the Tamil Nadu Land Encroachment Act, 1905, the petitioner is also having an alternative remedy of appeal under Section 10 of the Land Encroachment Act, 1905, and prays for appropriate orders to protect the interest of the petitioner.

4.Mr.Aayiram K.Selvakumar, learned Additional Government Pleader, accepts notice on behalf of the respondents 1 to 3 and 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 the fourth respondent herein and conducted a survey through the Taluk Headquarters Surveyor and found that there are encroachments and accordingly, took a decision to take action for removal of encroachment and as such, he prays for dismissal of the Writ Petition.



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, though the petitioner has sought for a larger relief, by taking into consideration the facts and circumstances, this Court permits the petitioner to submit a detailed response/representation to the Revenue Thasildar, Radhapuram/third respondent within a period of three weeks from the date of receipt of a copy of this order and upon receipt of the same, 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. However, in the circumstances of the case, there is no order as to the costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CRL SIDE)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

sj

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,
Cheranmahadevi,
Tirunelveli District.

3. The Tahsildar,
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Tirunelveli District.

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KMV (CO)

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