



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.08.2020

CORAM :

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

and

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.P. (MD) .Nos.8542, 8550, 8571 and 8575 of 2020

and

W.M.P. (MD) .Nos.7915, 7916, 7917, 7918, 7934, 7936, 7938  
and 7939 of 2020

W.P. (MD) .No.8542 of 2020

N.Kodeeswaran

... Petitioner

Vs.

1.The District Collector,  
Thoothukudi District,  
Thoothukudi.

2.The Revenue Divisional Officer,  
Kovilpatti,  
Thoothukudi District.

3.The Tahsildar,  
Vilathikulam Taluk,  
Thoothukudi District.

4.The Assistant Engineer,  
Tamil Nadu Electricity Board,  
Surangudi,  
Thoothukudi District.

... Respondents

**Prayer:** The Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus forbearing the respondents from disturbing the petitioner's peaceful possession and enjoyment of 15.00.0 hectares out of 457.15.5 in disforest Survey No.989 in Vaipar-I Revenue Village in Vilathikulam Taluk, Thoothukudi District pursuant to the eviction order dated 16.10.2019 & 06.11.2019 passed by the third respondent in Na.Ka.No.A7/3343/2019 pending appeal dated 07.02.2020 on the file of the first respondent under Section 10 of Tamil Nadu Land Encroachment Act, 1905 and pending lock down in Covid - 19 pandemic situation.

For Petitioner : Mr.J.Ashok

For R1 to R3 : Mr.V.R.Shanmuganathan

Special Government Pleader

**W.P. (MD) .No.8550 of 2020**

D.Muthiahamsamy

... Petitioner

Vs.

1.The District Collector,  
Thoothukudi District,  
Thoothukudi.

2.The Revenue Divisional Officer,  
Kovilpatti,  
Thoothukudi District.

3.The Tahsildar,  
Vilathikulam Taluk,  
Thoothukudi District.

4.The Assistant Engineer,  
Tamil Nadu Electricity Board,  
Surangudi,  
Thoothukudi District.

... Respondents

**Prayer:** The Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus forbearing the respondents from disturbing the petitioner's peaceful possession and enjoyment of 8.00.0 hectares out of 457.15.5 in disforest Survey No.989 in Vaipar-I Revenue Village in Vilathikulam Taluk, Thoothukudi District pursuant to the eviction order dated 16.10.2019 & 06.11.2019 passed by the third respondent in Na.Ka.No.A7/3343/2019 pending appeal dated 07.02.2020 on the file of the first respondent under Section 10 of Tamil Nadu Land Encroachment Act, 1905 and pending lock down in Covid - 19 pandemic situation.

For Petitioner : Mr.J.Ashok

For R1 to R3 : Mr.V.R.Shanmuganathan  
Special Government Pleader

**W.P. (MD) .No.8571 of 2020**

Chandra Menon

... Petitioner

Vs.

1.The District Collector,  
Thoothukudi District,  
Thoothukudi.

2.The Revenue Divisional Officer,  
Kovilpatti,  
Thoothukudi District.



3.The Tahsildar,  
Vilathikulam Taluk,  
Thoothukudi District.

4.The Assistant Engineer,  
Tamil Nadu Electricity Board,  
Surangudi,  
Thoothukudi District.

... Respondents

**Prayer:** The Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus forbearing the respondents from disturbing the petitioner's peaceful possession and enjoyment of 10.00.0 hectares out of 457.15.5 in disforest Survey No.989 in Vaipar-I Revenue Village in Vilathikulam Taluk, Thoothukudi District pursuant to the eviction order dated 16.10.2019 & 06.11.2019 passed by the third respondent in Na.Ka.No.A7/3343/2019 pending appeal dated 07.02.2020 on the file of the first respondent under Section 10 of Tamil Nadu Land Encroachment Act, 1905 and pending lock down in Covid - 19 pandemic situation.

For Petitioner : Mr.J.Ashok

For R1 to R3 : Mr.V.R.Shanmuganathan

Special Government Pleader

**W.P. (MD) .No.8575 of 2020**

N.Selvarajan

... Petitioner

Vs.

1.The District Collector,  
Thoothukudi District,  
Thoothukudi.

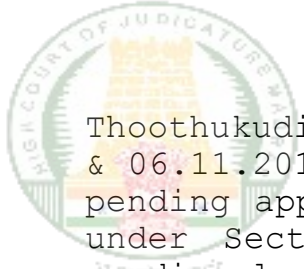
2.The Revenue Divisional Officer,  
Kovilpatti,  
Thoothukudi District.

3.The Tahsildar,  
Vilathikulam Taluk,  
Thoothukudi District.

4.The Assistant Engineer,  
Tamil Nadu Electricity Board,  
Surangudi,  
Thoothukudi District.

... Respondents

**Prayer:** The Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus forbearing the respondents from disturbing the petitioner's peaceful possession and enjoyment of 15.00.0 hectares out of 457.15.5 in disforest Survey No.989 in Vaipar-I Revenue Village in Vilathikulam Taluk,



Thoothukudi District pursuant to the eviction order dated 16.10.2019 & 06.11.2019 passed by the third respondent in Na.Ka.No.A7/3343/2019 pending appeal dated 07.02.2020 on the file of the first respondent under Section 10 of Tamil Nadu Land Encroachment Act, 1905 and pending lock down in Covid - 19 pandemic situation.

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For Petitioner : Mr.J.Ashok  
For R1 to R3 : Mr.V.R.Shanmuganathan  
Special Government Pleader

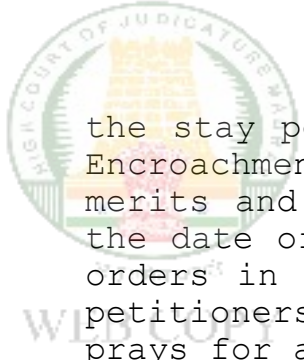
### C O M M O N   O R D E R

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

The petitioners claim that they are manufacturing salt using salt pan, processing it and selling it and it is the sole source of livelihood and they are doing it for the past three decades.

2. The petitioners also claim that though they are in occupation of the land belonging to the Government, they have been issued with 'B' Memo to pay charges. The petitioners were surprised to receive notices under the Tamil Nadu Land Encroachment Act, 1905, and they initially filed W.P.(MD).No.2139 of 2020, challenging the legality of the said proceedings. The Division Bench of this Court, vide common order dated 04.02.2020, in W.P.(MD).No.2139 of 2020 batch etc., (D.Chandra Menon and eleven others Vs. The Tamil Nadu Government through its Secretary, Revenue Department, Secretariat, Chennai 600 009 and five others), had granted liberty to the petitioners to exhaust the appeal remedy under Section 10 of the said Act.

3. The learned counsel appearing for the petitioners would submit that pursuant to the liberty granted, the appeals have also been filed before the appellate authority viz., the Collector of Tuticorin District, along with the petitions for interim orders and without passing any interim order, the main appeals have been heard and orders reserved and in the interregnum, the concerned official respondents, without following the due process of law, had demolished the superstructures under the pretext of developing of an industrial estate by the State Industries Protection Corporation. It is further pointed out by the learned counsel for the petitioners that the unlawful act of evicting the petitioners and demolishing the superstructures put up by them, is also in violation of the general ban order passed by this Court in a *suo motu* writ petition and prays for reconstruction of possession or give them alternate lands to eke out their livelihood. In W.P.(MD).No.8571 of 2020, the petitioner also pleads the similar facts and the learned counsel for the petitioner would submit that W.P.(MD).No.3899 of 2020 was also filed praying for early disposal of the petition for stay, pending disposal of the appeals before the Collector of Tuticorin District and this Court, vide order dated 26.02.2020, directed the first respondent/the District Collector, Tuticorin District to dispose of



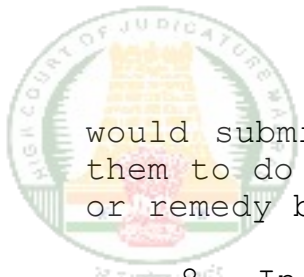
the stay petition filed under Section 10(B) of the Tamil Nadu Land Encroachment Act, 1905, along with the appeal dated 07.02.2020, on merits and in accordance with law, within a period of 10 days from the date of receipt of a copy of this order and without passing any orders in the petition for stay, the superstructure put up by the petitioners on the land in question, has been demolished and hence prays for appropriate orders.

4. Mr.V.R.Shanmuganathan, learned Special Government Pleader accepts notice on behalf of the respondents 1 to 3 and would submit that as per G.O.Ms.No.241 of Revenue Department, dated 16.05.2020, the said lands are meant for establishment of industrial estate for public purposes and following the due process of law, under the provisions of Tamil Nadu Land Encroachment Act, eviction process has been done and insofar as the appeals preferred by the petitioners under the provisions of Tamil Nadu Land Encroachment Act are concerned, the appellate authority viz., the Collector of Tuticorin District have reserved orders and it is likely to be pronounced. The learned Special Government Pleader would further submit that admittedly the petitioners are eking out their livelihood by doing commercial operation and if at all they want to redo their business, they are entitled to purchase the patta land on their own and since the acts of the petitioners constitute a rank encroachment, they have been evicted and without resorting under due process of law, they cannot found fault with the act of the respondents. Hence, he prayed for dismissal of the writ petitions.

5. This Court has carefully considered the rival submissions and perused the materials placed before this Court.

6. A perusal of the typed set of documents would *prima facie* disclose that the provisions of the Tamil Nadu Land Encroachment Act, 1905, had been invoked and admittedly, the lands in question are not classified as Village site (grama natham). No doubt, the petitioners have filed the statutory appeals in pursuant to the liberty granted by this Court, vide order dated 04.02.2020 in W.P. (MD)No.2139 of 2020 batch etc. and pending disposal of the appeals, they also filed a petition for stay. Though the learned counsel for the petitioners expressed his grievance for not disposal of the petition for stay, especially in respect of the petition in W.P. (MD).No.8571 of 2020, it is open to the appellate authority to take up the petition for stay at the first instance and give a disposal or take up the main appeal itself and give a disposal and the said official feels that the arguments, being advanced, are one and the same in the petition for stay as well as in the main appeals.

7. In the light of the above facts and circumstances, this Court is unable to come to the aid of the writ petitioners. At this juncture, the learned counsel for the petitioners prays for the leave of this Court to submit individual representation for alternate site and on the said submission, the learned Special Government Pleader appearing for the official respondents 1 to 3



would submit that if the petitioners are so advised, it is open to them to do so and they are always at liberty to work out their right or remedy before the competent forum in accordance with law.

8. In the light of the reasons assigned above, these Writ Petitions are dismissed subject to the above observations. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

**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,  
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Thoothukudi.
- 2.The Revenue Divisional Officer,  
Kovilpatti,  
Thoothukudi District.
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Thoothukudi District.

**W.P. (MD) .Nos.8542, 8550, 8571 and 8575 of 2020**  
**04.08.2020**

akv

SDS (19.08.2020) 6P-5C