



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.08.2020
CORAM

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**THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM**

**W.P. (MD)No.9378 of 2020
and
W.M.P (MD)No.8530 of 2020**

K.Murugesan

... Petitioner

Vs.

1.The Secretary to Government,
Revenue Department,
Chennai.

2.The Commissioner,
Adi Dravidar and Tribal Welfare Department,
Chennai.

3.The District Collector,
Sivagangai District,
Sivagangai.

4.The Special Tahsildar,
Adi Dravidar Welfare,
Sivagangai Taluk,
Sivagangai District.

5.The Tahsildar,
Sivagangai Taluk,
Sivagangai District.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents to grant assignment patta in favour of the people of Muthunagar, Vandavasi Road, Sivagangai Taluk, in respect of the land situated in S.Nos.211/1 and 211/2 in Paiyur Pillaivayal Group, Vaniyangudi Panchayat, Sivagangai District, by considering the petitioner's representation, dated 04.08.2020 and consequently, direct the respondents 4 and 5 not to proceed with the eviction process till the disposal of the petitioner's representation, dated 04.08.2020.



For Petitioner : Mr.G.R.Sathish

For Respondents : Mr.R.Murugan
Additional Government Pleader

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ORDER

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

The petitioner claims to be an agricultural coolie worker and is residing at Muthu Nagar, Vandavasi Road, Sivagangai Taluk, Sivagangai District and according to him, the fourth respondent, vide proceedings in Na.Ka.No.845/92, dated 31.01.1997, 11.03.1997 and 30.04.1997, had granted free house site pattas to the people belonging to the Scheduled Caste community in various Survey Numbers of Paiyur Pillaivayal Group, Vaniyangudi Panchayat, Sivagangai District and the allottees are continuing to be in possession and also put superstructures/temporary sheds and they have been granted all the benefits extended by both the Central and State Governments from time to time.

2. Learned Counsel for the petitioner would submit that all of a sudden, the fifth respondent had invoked the provisions of Sections 5 and 7 of the Tamil Nadu Land Encroachment Act, 1905 and issued notices as if the allottees are encroachers and pointing out the mistake, a detailed representation has been submitted to the Honourable Chief Minister of Tamil Nadu with the copies marked to the official respondents and despite receipt and acknowledgement, the fifth respondent is proceeding further and trying to evict the allottees without recourse to due process of law and hence, the petitioner is constrained to approach this Court by filing the present writ petition.

3. Mr.R.Murugan, learned Additional Government Pleader accepts notice on behalf of the respondents and would submit that the remedy open to the petitioner and the persons similarly placed, if any, is to invoke the provisions of Section 10 of the Tamil Nadu Land Encroachment Act, 1905 and file appeal before the appellate authority and in the light of the availability of effective alternative remedy, this writ petition is not maintainable and it is also the alternate submission of the official respondents that it is also open to the individuals who received notices under the said Act to submit their individual representations by enclosing relevant and authenticated documents to the fifth respondent and the said official may be directed to consider and pass appropriate orders within a stipulated time frame.



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

5. This Court, taking into consideration the above facts and circumstances of the case and without going into the merits of the claim projected by the petitioner/persons for whom, he is also espousing their cause, permits the persons against whom, notices have been issued by the fifth respondent under the provisions of the Tamil Nadu Land Encroachment Act, 1905, to submit individual representations by enclosing the relevant and authenticated documents, within a period of three weeks from the date of receipt of a copy of this order and the fifth respondent, upon receipt of the same, is directed to consider the said individual representations on merits and in accordance with law and pass appropriate orders within a further period of four weeks thereafter and till such time, the fifth respondent shall defer the decision in terms of the notices issued under the said Act. It is also made clear that the individuals till the disposal of the representations by the fifth respondent, shall not create any third party right in respect of their respective land(s) and superstructure(s) in their possession.

6. This writ petition is disposed of accordingly. No costs. Consequently, the connected writ miscellaneous petition is closed.

Sd/-

Assistant Registrar (Cr1.Side)

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/ /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 Secretary to Government,
Revenue Department, Chennai.



2.The Commissioner,
Adi Dravidar and Tribal Welfare Department,
Chennai.

3.The District Collector,
Sivagangai District, Sivagangai.

4.The Special Tahsildar,
Adi Dravidar Welfare,
Sivagangai Taluk, Sivagangai District.

5.The Tahsildar,
Sivagangai Taluk, Sivagangai District.

+1 CC to M/s.Special Govt.Pleader (SR-14326[F] dated 18/08/2020)

+1 CC to M/s.G.R. SATISH, Advocate (SR-14286[F] dated 18/08/2020)

W.P. (MD)No.9378 of 2020

and

W.M.P (MD)No.8530 of 2020

17.08.2020

RSB

SDS (26.08.2020) 4P-8C