



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.09.2020

CORAM :

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

and

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.P. (MD) .Nos.10479, 10480, 10487 and 10490 of 2020

and

W.M.P. (MD) .Nos.9272, 9273, 9278 and 9282 of 2020

Kannan ... Petitioner in W.P(MD)No.10479 of 2020

Thirugnanamurthy ... Petitioner in W.P(MD)No.10480 of 2020

Ramalingam ... Petitioner in W.P(MD)No.10487 of 2020

Annavu ... Petitioner in W.P(MD)No.10490 of 2020

Vs.

1.The District Collector,
Tiruchirappalli.

2.The Revenue Divisional Officer,
Tiruchirappalli.

3.The Tasildhar,
Thiruvarumbur,
Trichy District.

... Respondents in all W.Ps

Prayer in W.P(MD)No.10479 of 2020: The Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, forbearing the respondents from proceeding under the Tamil Nadu Land Encroachment Act, 1905, against the petitioner regarding 60 cents of land in Thuvakudi S.F.No.175/5, Thiruvarumbur Taluk, Trichy District.

Prayer in W.P(MD)No.10480 of 2020: The Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, forbearing the respondents from proceeding under the Tamil Nadu Land Encroachment Act, 1905, against the petitioner regarding 50 cents of land in Thuvakudi S.F.No.175/5, Thiruvarumbur Taluk, Trichy District.

Prayer in W.P(MD)No.10487 of 2020: The Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, forbearing the respondents from proceeding under the Tamil Nadu Land Encroachment Act, 1905, against the petitioner



regarding 20 cents of land in Thuvakudi S.F.No.175/5, Thiruvarumbur Taluk, Trichy District.

Prayer in W.P(MD)No.10490 of 2020: The Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, forbearing the respondents from proceeding under the Tamil Nadu Land Encroachment Act, 1905, against the petitioner regarding 20 cents of land in Thuvakudi S.F.No.175/5, Thiruvarumbur Taluk, Trichy District.

(In all W.Ps)

For Petitioners : Mr. S.Muthukrishnan

For Respondents : Mr.K.P.Krishnadoss,
Special Government Pleader

COMMON ORDER

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

By consent, all the writ petitions are taken up for hearing and disposed of by this common order as the issue to be adjudicated and decided is one and the same.

2. Admittedly, the petitioners along with nine others had filed a civil suit in O.S.No.577 of 2019 on the file of the Court of District Munsif, Tiruchirappalli, against the official respondents as well as Commissioner, Thuvakudi Municipality, Thuvakudi, praying for a declaration that they are the absolute owners of the suit property in Survey No.175/5, admeasuring to an extent of 0.96.5 ares (2.38 acres) in Thuvakudi Village, Thiruvrumbur Taluk, Tiruchirappalli District, with the superstructure of asbestos shed put up by the plaintiffs 1 and 2 namely M.Rathinam and R.Selvarani and also for permanent injunction restraining the defendants from interfering with their peaceful possession and enjoyment of the suit property and for consequential reliefs.

3. Admittedly, the petitioners / plaintiffs had failed to obtain any interim orders in the pending suit. The petitioners in these writ petitions are arrayed as plaintiffs 3, 5, 8 and 9. A cursory perusal of the averments made in the plaint filed in the suit would disclose that the forefathers of the plaintiffs were allotted with the suit property for agricultural purposes to use the same as 'Kalathu Medu' for drying paddy etc., by the Government and the said utilisation had taken place over 100 years and some of the plaintiffs had also put up permanent superstructures over the land, which is the place to be used only for drying crops / paddy.



4. In the present writ petitions, challenge is made to the impugned notices issued by the Revenue Inspector, Thiruvarambur, under Section 7 of the Tamil Nadu Land Encroachment Act, 1905.

5. The Primordial submission made by the learned counsel appearing for the petitioners is that since a comprehensive suit is pending on the file of the Court of District Munsif, Tiruchirappalli, for declaration that they are the absolute owners of the property in question and in that suit, the respondents 1 to 3 are arrayed as defendants 1 to 3, in all fairness, they ought not to have proceeded against them by invoking the provisions under Tamil Nadu Act 03 of 1905 and prays for appropriate orders.

6. The learned counsel appearing for the petitioners in support of his submission, has placed reliance upon the judgment rendered by the Honourable Supreme Court of India reported in AIR 1982 SC page 1081 (*Government of Andhra Pradesh vs. Thummala Krishna Rao & Another*).

7. Per contra, Mr.K.P.Krishnadoss, learned Special Government Pleader, who accepts notice on behalf of the respondents, would submit that admittedly, no interim orders are in operation in the pending suit instituted by the petitioners along with others and there cannot be any order of restraint restraining the official respondents from proceeding further by invoking the statutory provisions and since action is taken strictly in accordance with the provisions of the Tamil Nadu Land Encroachment Act, 1905, the case projected by the petitioners is liable to be rejected and prays for dismissal of the writ petitions with costs.

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

9. It is conceded by the petitioners, who are all parties in O.S.No.577 of 2019 on the file of the Court of District Munsif, Tiruchirappalli, that the landed property in Survey No.175/5, admeasuring to an extent of 0.96.5 ares (2.38 acres) in Thuvakudi Village, Thiruvrumbbur Taluk, Tiruchirappalli District, have been given to the agriculturists for drying of crops / paddy. It is also further averred in the plaint that some of the plaintiffs, had also constructed superstructure on a portion of the said land. Even for the sake of argument, if the case of the plaintiffs/ writ petitioners are accepted, the fact remains that the land in question has been allotted for agricultural purposes and thus, it *prima facie* appears that some of the plaintiffs do not have right to put up superstructure in the land, which is to be utilised for common purposes. It is also doubtful that whether they have obtained any planning permission for putting up superstructure or



not and it is for the local body to take a call on this aspect.

10. The judgment relied on by the learned counsel appearing for the petitioners reported in AIR 1982 SC page 1081(cited *supra*) would not apply to the facts of the case for the reason that in the case before the Honourable Supreme Court of India, the land originally belonged to Nawab from whom the respondents therein claimed to have purchased it and in the case on hand, it is not so, for the reason that it is conceded by the petitioners that the land was allotted by the Government for common purposes for drying paddy / crops.

11. It is also a well settled position of law that this Court cannot pass an order of restraint restraining the official respondents from exercising their statutory function. The facts of the case would also disclose that the Revenue Inspector, Thiruvarambur, has invoked the provisions of the Tamil Nadu Land Encroachment Act, 1905 and in the facts and circumstances of the case, it cannot be found fault with.

12. It is equally a well settled position of law that pendency of a civil proceedings is not a bar for the official respondents from proceeding further in the absence of any interim orders and admittedly, no interim orders are in operation in O.S.No.577 of 2019 on the file of the Court of District Munsif, Tiruchirappalli, restraining the defendants / official respondents from invoking the statutory provisions.

13. In the light of the reasons assigned above, this Court is of the considered view that there are no merits in these writ petitions and deserve dismissal and accordingly, all these writ petitions are dismissed. No Costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-III)

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Sub Assistant Registrar(CS)

pm

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,
Tiruchirappalli.

2.The Revenue Divisional Officer,
Tiruchirappalli.

3.The Tasildhar,
Thiruvarumbur,
Trichy District.

+1 CC to M/s.GP (SR-15675[F] dated 02/09/2020)

W.P. (MD) .Nos.10479, 10480, 10487 and 10490 of 2020

01.09.2020

pm(CO)

TR(11.09.2020) 5P 5C