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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.08.2021

CORAM :

THE HON'BLE MR.JUSTICE N.KIRUBAKARAN
and
THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

W.P.No.16071 of 2021
and
W.M.P.Nos.16997, 16999 & 17000 of 2021

1.Ezhumalai
2.E.Kanniyapan
3.E.Thanikachalam

... Petitioners

Vs

1.The Commissioner of Land Administration,
Chepauk,
Chennai - 600 005.

2.The District Collector,
Ranipet District.

3.The Revenue Divisional Officer,
Ranipet, Vellore District.

4.The Tahsildar,
Arakkonam,
Vellore District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance a Writ of Certiorari, calling for the records on the file of the 1st Respondent's Order dated 24.06.2021 in G.O.(Ms)No.419 pertaining to the land in Survey No.6 and 9 at Murungai Village, Arakonam Taluk, Vellore District and quash the same.

For Petitioners : Mr.Reshmi Christy.

For Respondents : Mrs.R.Anitha, State
Government Counsel.

O R D E R

(Order of the Court was delivered by N.KIRUBAKARAN, J)

The matter has been heard through "Video Conference".

2.The Petitioners have come before this Court challenging the Order of the Government dated 24.06.2021 in G.O. (MS) NO.419, Revenue and Disaster Management Department,



Land Disposal Wing, 'LD.6(2)' Section in the Revision Petitions filed by the Petitioners under Section 10-A(1)(c) of Tamil Nadu Land Encroachment Act, 1905.

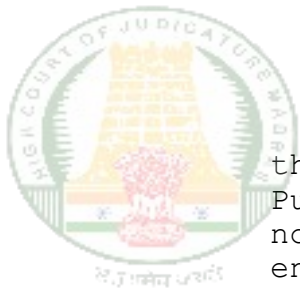
3.The Petitioners contend that they are in possession of the property comprised in S.No.6 to an extent of 0.20.5 Hectares which has been classified as 'Sarkar Poromboke' and S.No.9 to an extent of 0.01.0 Hectares which has been classified as 'Kuttai' and has been cultivating the said lands and put up house and living in the said properties. However, since proceedings have been initiated against the Petitioners on 20.09.2018, the Petitioners filed Revision Petitions and the same were dismissed on 24.06.2021, which is challenged by way of this Writ Petition.

4.The Learned Counsel for the Petitioners would submit that the Petitioners are landless poor and they have been making cultivation in the said properties for the past 20 years and therefore, they should be allowed to do the same. Moreover, the Petitioners were already given notice to remove the encroachments and the First Petitioner has already given a reply on 10.07.2021 and therefore, an opportunity could be given so that order could be passed by the Respondents.

5.Heard Mrs.Reshmi Christy, Learned Counsel for the Petitioners and Mrs.R.Anitha, Learned State Government Counsel appearing for the Respondents.

6.A perusal of the records would show that right from the year 2009, proceedings have been initiated to remove the encroachments made by the Petitioners. However, Petitioners have been approaching this Court by filing Writ Petition after Writ Petition and no finality could be reached. Finally the Petitioners filed revision before the Government under section 10 (A) (1)(C) of the Tamil Nadu Land Encroachment Act, 1905 and the same was rejected holding that the Petitioners are not landless poor and the Petitioners have got an extent of 5.22 Acres of patta land which is clearly stated in Paragraph No.8 of the order which is usefully extracted as follows:

"8.Regarding Para 7 and 8, it is submitted that against the RDO's order, Tmt.Logammal and Tmt.Mohannammal were filed a revision petitions before the District Revenue Officer on 07.12.2010. They also filed a writ Petition W.P.No.5971 and 5972 of 2010 before the High Court to direct the DRO to dispose of the revision petition to which the Court in its order dated 10.03.2011 had directed the DRO to consider the revision petitions on merits and pass orders. The DRO after due enquiry and field inspection has rejected their revision petitions in her proceedings No.Mu.Mu.D3/1059/2013 dt.25.01.2013 reasoning that as the revision petitioners were already holding 5.22 Acres of patta land in their husbands name and



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the said land is required for future Government Purpose, the claims of the revision petitioners are not valid. Subsequently, to evict the encroachments in the said land, the Nemili Block Development Officer served notices under section-7 of the TamilNadu Land Encroachment Act-1905 to the petitioners and other encroachers on 10.06.2015."

7.It is seen that the land encroached in S.No.6 is classified as 'Sarkar Thoppu Poromboke' and the land encroached in S.No.9 is classified as 'Kuttai'. Hence, the Petitioners have got no right to own the Government Poromboke land as well as water body. Hence, they have to vacate or they should be removed. Though the Learned Counsel for the Petitioners would seek passing order pursuant to the reply given by the Petitioners dated 10.07.2021, there is no necessity for passing any order as already order has been passed by the Government holding that after due enquiry, based on the orders of this Court, the Petitioners have encroached the land. Hence, no purpose would be achieved by giving an opportunity to the Respondents to pass order.

8.In view of the above, this Writ Petition fails and the same is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

9.The Petitioners are directed to vacate the premises within a period of two weeks from the date of receipt of a copy of this order failing which the Respondents shall remove the encroachments made by the Petitioners and file a compliance report before this Court on 31.08.2021.

10.Post the matter on 31.08.2021 for reporting compliance.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

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To

1.The Commissioner of Land Administration,
Chepauk,
Chennai - 600 005.

2.The District Collector,
Ranipet District.

3.The Revenue Divisional Officer,
Ranipet, Vellore District.



4.The Tahsildar,
Arakkonam,
Vellore District.

COPY TO

The Section Officer,
V.R. Section, High Court,
Madras.

+lcc to Mr.Reshmi Christy, Advocate, S.R.No. 38399
+lcc to the Government Pleader, S.R.No. 38802

W.P.No.16071 of 2021
and
W.M.P.Nos.16997, 16999 & 17000 of 2021

NRJK (CO)
GN(25/08/2021)