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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM  
and  
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

W.P.Nos.18033, 18036, 18037 and 18040 of 2021  
and  
W.M.P.Nos.19264, 19266, 19267 and 19268 of 2021

Kannadasan  
A.Meenatchi  
S.Rajathi  
Arumugam  
...Petitioner in W.P.No.18033 of 2021  
... Petitioner in W.P.No.18036 of 2021  
... Petitioner in W.P.No.18037 of 2021  
... Petitioner in W.P.No.18040 of 2021  
Vs.

1. The District Collector,  
Salem.
2. The Revenue Divisional Officer,  
Attur, Salem District.
3. The Thasildar,  
Pedhanaickenpalayam,  
Salem District.
4. The Executive Officer,  
Selection Grade Municipality,  
Pedhanaickenpalayam,  
Attur Taluk,  
Salem District.

...Respondents in all Wps.

COMMON PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for the records with respect of the impugned notice dated 01.12.2020 issued by the fourth respondent in his proceedings in Na.Ka.No.17/2020/A1 and quash the same.



In all petitions:-

For petitioner : Mr.R.Nalliyappan  
For respondents : Mr.D.Ravichander  
Govt. Counsel (for R1 to R3)  
Mr.S.J.Mohammed Sadhik (for R4)

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#### COMMON ORDER

(The Order of the Court was made by K.KALYANASUNDARAM,J)

These writ petitions have been filed challenging the notices issued by the Executive Officer, Selection Grade Municipality Pedhanaickenpalayam, Attur Taluk, Salem District, the fourth respondent herein, under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 (herein after referred to as the Act).

2.It is the case of the petitioners that they have been in occupation of the land in dispute for 25 years and they have been requesting the revenue authorities to issue patta.

3.The learned counsel appearing for the petitioners Mr.R.Nalliyappan would urge that the fourth respondent/Executive Officer, Selection Grade Municipality, Pedhanaickenpalayam has no jurisdiction to issue the impugned notices under the Land Encroachment Act. In this regard, the learned counsel draws the attention of this Court under Section 7 of the Act, which reads as follows:-

"7.Prior notice to person in occupation. - Before taking proceedings [under section 6], the Collector [or Tahsildar, [or Deputy Tahsildar or Revenue Inspector or any authorized officer or] [any other officer specified by the State Government in this behalf (not being an authorised officer) (hereinafter referred to as the 'specified officer')], as the case may be,] shall cause to be served on the person reputed to be in unauthorised occupation of land being The [the property of Government] a notice specifying the land so occupied and calling on him to show cause before a certain date why he should not be proceeded against [under Section 6.]

Such notice shall be served in the manner prescribed in section 25 of the [Tamil Nadu] Revenue Recovery Act, 1864 ([Tamil Nadu] Act II of 1864), of or in such other manner as the [State Government] by rules or orders under Section 8 may direct:



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[Provided that no such notice shall be necessary in the case of any person unauthorisedly occupying any land, if he has been previously evicted from such land under Section 6 or if he has previously vacated such land voluntarily after the receipt of a notice under Section 5-B or under this Section:]

[Provided further that where the notice under this Section is caused to be served by any Revenue Inspector or [any specified officer], he shall require the person reputed to be in unauthorised occupation of the land to show cause against such notice to the Collector, Tahsildar or [Deputy Tahsildar or authorised officer having jurisdiction, as the case may be,] and shall also make a report in writing containing such particulars as may be specified in rules or orders made under section 8 to the Collector, Tahsildar or 3 [Deputy Tahsildar or authorised officer having jurisdictions, as the case may be.]]"

4.The learned Government Counsel appearing for the respondents 1 to 3 Mr.D.Ravichander would argue that the fourth respondent has every right to remove the encroachments under Section 182 of the Tamil Nadu District Municipalities Act.

5.Heard the rival submissions of the both the counsels and perused the materials available on records.

6.In the present case, it is an admitted fact that the notices impugned in these writ petitions have been issued by the Executive Officer of Pedhanaickenpalayam Municipality/the fourth respondent herein under Section 7 of the Act. A cursory perusal of the Section would make it clear that for removal of encroachment in a poramboke land, the revenue authorities are empowered to initiate proceedings.

7.Although this position could not be disputed by the respondents, according to the learned Government Counsel, the fourth respondent has power for removal of encroachment under Section 182 of the Tamil Nadu District Municipalities Act. Hence, we are of the considered opinion that the orders impugned in these writ petitions are liable to be set aside and accordingly, they are set aside. It is open to the fourth respondent to initiate the proceedings for removal of encroachment in accordance with law.



8. In view of the above observation, these writ petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-  
Assistant Registrar (CS VII)

//True Copy//

Sub Assistant Registrar

skn

To

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AD (CO)  
PR (22/09/2021)