



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.09.2021

CORAM:

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

W.P.Nos.18590, 18595 & 18598 of 2021
and
W.M.P.Nos.19827, 19831 & 19836 of 2021

M.Govindan	...Petitioner in W.P.No.18590 of 2021
G.Vasanthakumar	...Petitioner in W.P.No.18595 of 2021
G.Mohanraj	...Petitioner in W.P.No.18598 of 2021

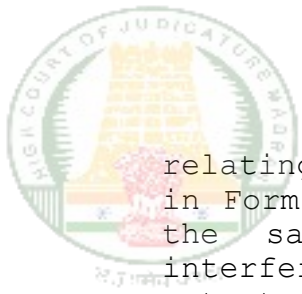
Vs.

1. The District Collector,
Salem District,
Salem - 6.
2. The Tahsildar,
Sankari Taluk,
Salem District.
3. The Assistant Engineer,
Public Works Department,
Water Resources Organization,
Mettur Canal Division,
Kullampatti,
Salem District.

...Respondents in all petitions

Prayer in W.P.No.18590 of 2021: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned eviction notice dated 13.08.2021 made in Form 3 under Rule 6(1) issued by the third respondent, quash the same and consequently, forbear the respondents from interfering with the petitioner's right to shelter over an extent of 0.0148.50 sq.mt., in S.No.210/1 Pullagoundanpatti village, Sankari Taluk, Salem District.

Prayer in W.P.No.18595 of 2021: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus calling for the records



relating to the impugned eviction notice dated 13.08.2021 made in Form 3 under Rule 6(1) issued by the third respondent, quash the same and consequently, forbear the respondents from interfering with the petitioner's right to shelter over an extent of 0.0229.50 sq.mt., in S.No.210/1 Pullagoundanpatti village, Sankari Taluk, Salem District.

Prayer in W.P.No.18598 of 2021: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned eviction notice dated 13.08.2021 made in Form 3 under Rule 6(1) issued by the third respondent, quash the same and consequently, forbear the respondents from interfering with the petitioner's right to property over an extent of 0.0294.00 sq.mt., in S.No.210/1 Pullagoundanpatti village, Sankari Taluk, Salem District.

In all petitions:-

For petitioner : Mr.N.Manokaran

For respondents : Mr.D.Ravichander
Govt. Counsel

COMMON ORDER

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

Mr.D.Ravichander, learned Government Counsel takes notice for the respondents. By consent, these writ petitions are taken up for final disposal at the admission stage itself.

2.These writ petitions have been filed challenging the notices issued by the third respondent in Form 3 under Rule 6(1) of Tamil Nadu Protection of Tanks and Eviction of Encroachment Rules, 2007 dated 13.08.2021 and for a consequential direction forbearing the respondents from interfering with the right of the petitioners, who have occupied the land in S.No.210/1 situated at Pullagoundanpatti village, Sankari Taluk, Salem District.

3.The case of the petitioners is that they have been in occupation of the small extent of land in S.No.210/1 of Pullagoundanpatti Village, Sankari Taluk, Salem District and they continued to be in possession and enjoyment of the property for more than 50 years and they obtained electricity service connection and they are also having Adhaar Card, Voter I.D and Family Card. It is also stated that they are paying property tax to the local body.



4.The learned counsel appearing for the petitioners Mr.N.Manoharan would urge that the Division Bench of this Court in the case of T.S.Senthilkumar vs. State of Tamil Nadu reported in 2010(3) MLJ 771 has directed the authorities to pass orders after providing opportunity to the petitioners, but in the case on hand, no such opportunity was given and the orders impugned in these writ petitions have been issued against the principles of natural justice. He would further submit that the petitioners on receipt of the impugned notice, have submitted representations to the third respondent, but those representations have not been considered by the third respondent. He would further submit that the third respondent did not conduct any survey before issuing the notice.

5.The learned Government Counsel appearing for the respondents submitted that the third respondent is the competent authority to pass orders and the impugned notices can be treated as show-cause notices and the third respondent is ready to consider the reply submitted by the petitioners and pass orders in accordance with law.

6.In the light of the above submissions of the learned counsels on either side, this Court, without expressing any opinion on the merits of the matter, directs the third respondent to pass orders taking into consideration the representations of the petitioners as reply to the notice in accordance with law, after affording opportunity of personal hearing to the petitioners. Further, the respondents are directed to conduct survey before passing the orders. Till then, the respondents are directed to maintain status quo as on date.

7.With the above directions, these writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

skn

To

1. The District Collector,
Salem District, Salem - 6.



2. The Tahsildar,
Sankari Taluk,
Salem District.

3. The Assistant Engineer,
Public Works Department,
Water Resources Organization,
Mettur Canal Division,
Kullampatti,
Salem District.

+1cc to the Government Pleader, S.R.No.46158

+2cc to M/s.N.Manokaran, Advocate, S.R.No.45465 and 45461

W.P.Nos.18590, 18595 & 18598 of 2021
and
W.M.P.Nos.19827, 19831 & 19836 of 2021

PL(CO)
RGA(05/10/2021)