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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.09.2021

CORAM:

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

W.P.No.19612, 19614, 19617 & 19619 of 2021
and
W.M.P.No.20902, 20903, 20905 & 20908 of 2021

Velusamy	...Petitioner in W.P.No.19612 of 2021
Balu	...Petitioner in W.P.No.19614 of 2021
Palanisamy	...Petitioner in W.P.No.19617 of 2021
Venkatachalam	...Petitioner in W.P.No.19619 of 2021

Vs.

1. The District Collector,
Office of District Collectorate,
Salem District.
 2. The District Revenue Officer,
District Collectorate Complex,
Salem District.
 3. The Revenue Divisional Officer,
Sankari,
Salem District.
 4. The Tahsildar,
Tahsildar Office,
Edapaddi Taluk,
Salem District.
 5. The Block Development Officer,
Office of Block Development,
Edapaddi Taluk,
Salem District.
 6. The Executive Officer &
The President of Sithur Panchayat Board,
Sithur Panchayat,
Edapaddi Taluk,
Salem District.
- ...Respondents in all petitions



Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus forbearing the respondents from initiating any action on the basis of show cause notice dated 30.07.2021 issued by the 6th respondent in respect of property in S.F.Nos.57, 63/1, 58/1 and 58/1 situated at Sithur Bit-II Village, Sithur Panchayat, Edapaddi Taluk, Salem District and consequentially issue direction directing the 4th respondent to issue patta to the above property in favour of petitioner by considering petitioner's representations dated 06.07.2021 and 07.08.2021.

In all petitions;

For petitioner in
all the petitions : Mr.R.Marudhachalamurty

For respondents in
all the petitions : Mr.T.N.C.Kaushik
Government Counsel

COMMON ORDER

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

These writ petitions have been filed seeking for issuance of a Writ of Mandamus forbearing the respondents from initiating any action on the basis of show-cause notice dated 30.07.2021 issued by the 6th respondent in respect of property in S.F.Nos.57, 63/1, 58/1 and 58/1 respectively situated at Sithur Bit-II Village, Sithur Panchayat, Edapaddi Taluk, Salem District and consequently, to direct the 4th respondent to issue patta to the above property in favour of petitioners by considering their representations dated 06.07.2021 and 07.08.2021.

2.It is the case of the petitioners that they have been enjoying the property in dispute for more than 40 years and the respondents without following the due procedure, are attempting to evict the them.

3.It appears that based on the order passed in W.P.No.5994 of 2021, these impugned orders have been issued by the sixth respondent. It is the submission of the learned counsel appearing for the petitioners that even in W.P.No.5994 of 2021, this Court has categorically stated that the respondents can consider the representation of one Muniappan and pass orders by adhering to the principles of natural justice.

4.The grievances of the petitioners is that without scrupulously following the order passed in the writ petition, the 6th respondent is attempting to dispossess them.



5.The learned Government Counsel appearing for the respondents Mr.T.N.C.Kaushik would state that for the notice issued by the 6th respondent, the petitioners have already submitted a reply and the 6th respondent is ready to consider the same and pass orders afresh before proceedings to evict the petitioners.

6.Heard the learned counsel appearing for the parties and perused the materials available on record.

7.It is seen that the Division Bench of this Court in W.P.No.5994 of 2021 has categorically held as follows:-

"8.Though the petitioner has prayed for a larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the claim projected by him either in his representation or in this writ petition, directs the Block Development Officer, Edappadi Taluk, Salem District, to follow the due process of law, by also adhering to the principles of natural justice and with the help and aid of the relevant revenue records, shall take immediate, necessary and appropriate action for removal of the alleged encroachment in the said water way [odai] as expeditiously as possible and not later than twelve weeks from the date of receipt of a copy of this order/uploading of the order in the website and communicate the decision taken, to the petitioner as well as to the private respondents and any other person/s concerned, if any."

8.In the case on hand, though this Court in the order referred supra in categorical term, directed the respondent No.5 to follow the due process of law and comply the principles of natural justice before taking action to remove the encroachment, admittedly, without doing so, the impugned order came to be passed. It is a clear violation of the directions issued in the earlier writ petition.

9.Be that as it may, considering the submissions made by the learned counsel appearing for the respondents, we hereby direct the 6th respondent to afford ample opportunity to the petitioners before taking action to remove encroachment. Since the petitioners already sent their reply, the 6th respondent shall take note of their stand and after hearing them in person, shall pass orders in accordance with law. Till then, the respondents are directed to maintain status quo.



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10. With the above directions, these Writ Petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

skn

To

1. The District Collector,
Office of District Collectorate,
Salem District.
2. The District Revenue Officer,
District Collectorate Complex,
Salem District.
3. The Revenue Divisional Officer,
Sankari, Salem District.
4. The Tahsildar,
Tahsildar Office,
Edapaddi Taluk,
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5. The Block Development Officer,
Office of Block Development,
Edapaddi Taluk,
Salem District.
6. The Executive Officer &
The President of Sithur Panchayat Board,
Sithur Panchayat,
Edapaddi Taluk,
Salem District.

+1cc to Mr.R.Marudhachalamurthy, Advocate, S.R.No.47680

+1cc to the Government Pleader, S.R.No. 47839

W.P.No.19612, 19614, 19617 & 19619 of 2021
and
W.M.P.No.20902, 20903, 20905 & 20908 of 2021

PA[co]
NSK 13/10/2021