

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 31.03.2021

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN  
AND  
THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

W.P.Nos.31048, 31051 and 31054 of 2019  
and W.M.P.Nos.31156, 31159 and 31164 of 2019

Mrs.R.Pushpa ...Petitioner in W.P.No.31048/2019  
Mrs.S.Savithiri ..Petitioner in W.P.No.31051/2019  
Mr.C.Ramesh ...Petitioner in W.P.No.31054/2019

Versus

- 1.The District Collector,  
Krishnagiri District
- 2.The Tahsildar,  
Denkanikottai Taluk, Denkanikottai,  
Krishnagiri District 635 107.
- 3.The Revenue Divisional Officer,  
Royakottai Village,  
Royakottai 635 116.  
Denkanikottai Taluk,  
Krishnagiri District.
- 4.The Village Administrative Officer,  
Royakottai Village,  
Royakottai 635 116,  
Denkanikottai Taluk,  
Krishnagiri District.
- 5.Block Development Officer,  
Kelamangalam,  
Denkanikottai Taluk 635 107,  
Krishnagiri District.

..Respondents in all W.Ps.

Common Prayer:- Writ Petitions filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for records pertaining to notice under Section 6 under the Tamil Nadu Land Encroachment Act, 1905, issued by the Tahsildar (2<sup>nd</sup> respondent) by his proceedings No.Na.Ka.No.771/2019/P1 dated 14.10.2019 and notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905, of the

Block Development Officer (5<sup>th</sup> respondent) dated 30.09.2019 under the Tamil Nadu Land Encroachment Act, 1905 issued to the petitioner's residence at No:1/621, Anna Nagar 1<sup>st</sup> Street, Royakottai, Denkanikottai Taluk, Krishnagiri District, No:1/637, Anna Nagar 1<sup>st</sup> Street, Royakottai, Denkanikottai Taluk, Krishnagiri District, No:1/652, Anna Nagar 1<sup>st</sup> Street, Royakottai, Denkanikottai Taluk, Krishnagiri District, and quash these same and pass such or other orders as this Court may deem fit and proper in the circumstances of the case.

For Petitioner in all W.P.s : Ms.Selvi Rajesh  
For RR 1 to 4 in all W.P.s : Mr.S.Kamalesh Kannan  
Government Advocate  
For RR 5 in all W.P.s : Mr.V.Jayaprakash Narayanan  
Special Government Pleader

COMMON ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.]

By consent, all these writ petitions are taken up and disposed of by this common order.

2. The petitioner in W.P.No.31048, claims to be the resident of Door No.1/621, Anna Nagar 1<sup>st</sup> Street, Royakottai, Denkanikottai Taluk, Krishnagiri District and according to her, the land admeasuring an extent of 0.19 sq.mt in S.F.No.66/132, was allotted to her mother-in-law, namely, Mrs.Mari, wherein she has put up a superstructure and it is also subjected to statutory levies.

3. The petitioner would further aver that the property is in her enjoyment for over 30 years and at the instance of some persons, who are inimical to their interest, namely, Mr.M.Muniraj, the 2<sup>nd</sup> respondent has issued notices under Section 7 and 6 of the Tamil Nadu Land Encroachment Act, 1905, dated 30.09.2019 and 14.10.2019, respectively and challenging the legality of the notices, came forward to file this Writ Petition.

4. In W.P.No.31051 of 2019, the petitioner claims that her husband was given an assignment in respect of a land admeasuring an extent of 0.00.40 sq.mt in S.F.No.66/130 of Royakottai, Denkanikottai Taluk, Krishnagiri District, wherein a superstructure bearing Door No.1/367, Anna Nagar 1<sup>st</sup> Street, Royakottai, Denkanikottai Taluk, Krishnagiri District, has been put up and the said property was under enjoyment of the petitioner for over 30 years and at the instance of some persons, who are inimical to their interest, namely, Mr.M.Muniraj, the 2<sup>nd</sup> respondent has issued notices under Section

7 and 6 of the Tamil Nadu Land Encroachment Act, 1905, dated 30.09.2019 and 14.10.2019, respectively and challenging the legality of the notices, came forward to file this Writ Petition.

5. The petitioner in W.P.No.31054 of 2019, has stated that the land admeasuring an extent of 0.25 sq.mt in S.F.No.66/2, was allotted in favour of his father, namely, Chellan and they put up a superstructure and they are in enjoyment of the said property for over 30 years and at the instance of some persons, who are inimical to their interest, namely, Mr.M.Muniraj, the 2<sup>nd</sup> respondent has issued notices under Section 7 and 6 of the Tamil Nadu Land Encroachment Act, 1905, dated 30.09.2019 and 14.10.2019, respectively and challenging the legality of the notices, came forward to file this Writ Petition.

6. The learned counsel appearing for the petitioners would submit that in the light of the fact that the lands in question have been assigned in favour of the purchasers and the superstructures are also under their enjoyment for over 30 years and it is also subjected to statutory levies, and that apart, they are having poor economical background, further action sought to be taken under the provisions of the Tamil Nadu Land Encroachment Act, would definitely cause hardship and difficulty for them and hence prays for appropriate orders.

7. Per contra, Mr.Kamalesh Kannan, learned Government Advocate appearing for the official respondents has drawn the attention of this Court to the Status Report of the 5<sup>th</sup> respondent and would submit that the petitioners are in occupation of lands, admeasuring an extent of 0.16 sq.m, 0.15 sq.m and 0.08 sq.m in S.F.Nos.66/81, 66/108, 66/115 and 66/15 respectively and they had put up superstructures also and the said lands have been classified as road path and public land, as per revenue records and since action is initiated under the provisions of the Tamil Nadu Land Encroachment Act, 1905, in the form of following due process of law, they cannot make any grievances and prays for dismissal of these Writ Petitions.

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

9. It is relevant to extract the tabular column given in paragraph no.5 of the said Status Report:

| Position herein            | Name                             | Position in W.P.No.23834/2018 | Survey No.     | Extent             | Classification   | Mode of Encroachment |
|----------------------------|----------------------------------|-------------------------------|----------------|--------------------|------------------|----------------------|
| Petitioner in W.P.No.31048 | Tmt.R.Pu shpa W/o.Rath inaswami  | 8 <sup>th</sup> respondent    | 66/81          | 0.16 square meters | Road             | Mould House          |
| Petitioner in W.P.No.31051 | Tmt.S.Sa vithri, W/o.Sami nathan | 13 <sup>th</sup> respondent   | 66/108, 66/115 | 0.15 square meters | Road public land | Compound wall        |
| Petitioner in W.P.No.31054 | Thiru.Ra mesh, S/o.Chin naraaj   | 6 <sup>th</sup> respondent    | 66/15          | 0.08 square meters | Road             | Terraced House       |

10. Though the petitioners claim that their predecessors in title have been granted assignment in respect of lands in S.F.Nos.66/132, 66/130 and 66/2, respectively, in the light of the tabular column given in paragraph no.5 of the Status Report, it prima facie appears that they are said to have encroached the extent of the lands given in the said survey numbers, which are classified as road and public land, in terms of the revenue records. As regards the due process of law is followed by invoking the provisions of the Tamil nadu Land Encroachment Act, 1905, the petitioners may not have any grievances.

11. It is also to be noted at this juncture that Section 7 notice came to be issued on 30.09.2018 and it is followed by Section 6 notice dated 14.10.2019 and for the petitioners, there is an alternative remedy under Section 10 of the Tamil Nadu Land Encroachment Act and however, the petitioners had straight away approached this Court by filing these Writ Petitions, for having the benefit of interim orders.

12. In the light of the fact that due process of law has been followed for removal of encroachment, this Court, is of the considered view that there is no merits in these Writ Petitions. Since the petitioners are having poor economical background and belong to lowest strata of society, they are granted twelve weeks time from the date of receipt of a copy of this order / uploading of the order in the Website, to remove the encroachment from the lands in question, as pointed out in paragraph no.5 of the Status Report of the 5<sup>th</sup> respondent, dated 21.11.2019. It is made clear that till such time, the petitioners shall not create any third party rights in respect

of the land and superstructure in question and shall not alter the physical features also.

13. In the result, all these Writ Petitions are dismissed with the above observations. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-  
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,  
Krishnagiri District
2. The Tahsildar,  
Denkanikottai Taluk, Denkanikottai,  
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3. The Revenue Divisional Officer,  
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5. Block Development Officer,  
Kelamangalam,  
Denkanikottai Taluk 635 107,  
Krishnagiri District.

+3cc to M/s.R.Rajesh, Advocate, Sr.No.21220,21219,21218  
+1cc to Government Pleader, Sr.No.21912

W.P.Nos.31048, 31051 and 31054 of 2019

AD(CO)  
KKV/15/06/2021