



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P.[MD]No.11493 of 2012

and

M.P.[MD]No.2 of 2012

1.R.Ramalakshmi

2. C.Rajamoorthy

... Petitioners

Vs.

The Tahsildar

Tuticorin Taluk,

Tuticorin - 628 001.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to call for the records relating to the notice dated 10.08.2012 under Annexure - XXXII 26th stage order 3rd para on the file of the respondent herein, pertaining to the land bearing Survey No.461/1B, corresponding to New T.S.No.11, to an extent of 5.353 cents in Meelavittan Village, Tuticorin Taluk and District, now falling within the City Limits of Tuticorin Municipal Corporation in Ward No.C in Block No.44, classified as grama natham, belonging to the first petitioner and to quash the same, and forbearing the respondent from interfering with the possession and enjoyment of the right of the petitioners over the said land in any manner.

For Petitioners

: Mrs.Jesi Jeeva Priya

For Respondent

: Mr.R.Baskaran,

Standing Counsel for Govt.

O R D E R

[Order of the Court was made by **T.S.SIVAGNANAM, J.**]

We have heard Mrs.Jesi Jeeva Priya, learned counsel for the petitioners and Mr.R.Baskaran, learned Standing Counsel for the respondent.

2. The petitioners have questioned a notice issued under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 on several grounds and in particular that the land is a Grama Natham land and the Thasildar has no jurisdiction to issue the notice. At the time, when the Writ Petition was admitted, an order of interim stay has been granted and counter affidavit along with vacate stay petition has been filed in September, 2013, which is listed before us for the first time only now. The petitioners continues to be in possession of the property which is stated to be a shopping complex (Vaniga Valagam).



3. In our considered view, the petitioners should raise the question of jurisdiction before the Authority by giving a reply to the impugned notice and the Authority has to adjudicate the matter and if any adverse orders are passed, there is an appellate remedy available. There is also probability that if the Authority is furnished with relevant documents proceedings may even be dropped. Therefore, the petitioners shall submit a reply to the impugned notice. Accordingly, we dispose of the writ petition by directing the petitioners to submit a reply within three months including all documents in proof of their lawful possession. The petitioners are at liberty to raise the question of jurisdiction. On receipt of the reply, the respondent should conduct an enquiry, afford an opportunity of personal hearing and pass a speaking order within a period of three months on merits and in accordance with law. Till then, the Status quo with regard to the possession as on date shall be maintained.

4. With the above directions, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

MR/KMM

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To
The Tahsildar
Tuticorin Taluk,
Tuticorin - 628 001.

+1 CC to M/s.P.JESSI JEEVA PRIYA, Advocate (SR-20829[F] dated 01/07/2021)

ORDER MADE IN
W.P. [MD]No.11493 of 2012
30.06.2021