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W.P. (MD) .Nos.16997 & 16998 of 2012

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P. (MD) .Nos.16997 & 16998 of 2012

and

M.P (MD) .Nos.1, 1 of 2012 & 1, 1 of 2015

C.Malaiyappan ... Petitioner in W.P(MD)No.16997/2012

S.Shanmugam ... Petitioner in W.P(MD)No.16998/2012

Vs.

1. The District Collector,
Thoothukudi District,
Thoothukudi.
2. The Block Development Officer,
(Village Panchayat),
Kayathar Union,
Kayathar,
Thoothukudi District.
3. The Deputy Block Development Officer (Planning),
Kayathar Union, Kayathar,
Thoothukudi District.
4. The Land Surveyor,
Land Surveyor Office,
Ettayapuram,
Thoothukudi District.
5. The Tahsildar,
Tahsildar Office,
Ettayapuram,
Thoothukudi District. ... Respondents in both W.Ps'

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India, praying for the issue of writs of Certiorari, to call for the records of the second and third respondent in proceedings Thee3/841/2012, dated 03.12.2012 and quash the same.



For Petitioner : Mr.P.Pethu Rajesh
(In both W.Ps')
For Respondents : Mr.A.K.Manikkam
(In both W.Ps') Standing Counsel for Government

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COMMON ORDER

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

With the consent on either side, these writ petitions are taken up for final disposal.

2.We have heard Mr.P.Pethu Rajesh, learned Counsel appearing for the petitioners and Mr.A.K.Manickam, learned Counsel appearing for the respondents.

3.These writ petitions have been filed challenging the notices issued by the third respondent directing the petitioners to remove the encroachments on the road margin. The writ petitions were admitted and an order of stay has been granted on 21.12.2021. The interim order is in force still, by which, the eviction proceedings remain stayed. The respondents have not filed counter affidavit till date.

4.In any event, examining the correctness and questioning the impugned order at this juncture, would be an exercise in futility, because by the efflux of time, there might have been several changes. If according to the respondents they have materials to show that the petitioners are encroachers, then notices ought to have been issued to the petitioners, because the petitioners claim that they have been granted assignment patta.

5.Therefore, we dispose of these Writ Petitions by setting aside the impugned notices and permitting the status quo which is prevailing as on today to continue with a direction to the third respondent to issue fresh notices to the petitioners, afford them an opportunity of giving their explanation and submitting their records, conduct inspection of the area to measure the property and thereafter take action in accordance with law. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

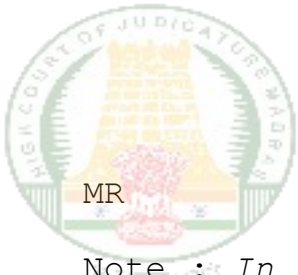
Sd/-

Assistant Registrar

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



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

1. The District Collector,
Thoothukudi District,
Thoothukudi.
2. The Block Development Officer,
(Village Panchayat),
Kayathar Union,
Kayathar, Thoothukudi District.
3. The Deputy Block Development Officer (Planning),
Kayathar Union, Kayathar,
Thoothukudi District.
4. The Land Surveyor,
Land Surveyor Office,
Ettayapuram,
Thoothukudi District.
5. The Tahsildar,
Tahsildar Office,
Ettayapuram,
Thoothukudi District.

+1 CC to M/s.SPL GP (SR-22276[F] dated 13/07/2021)

+1 CC to M/s.P.PETHU RAJESH, Advocate (SR-22183[F] dated 12/07/2021)

W.P. (MD) .Nos.16997 & 16998 of 2012
12.07.2021

RC (22.07.2021) 3P-8C