



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.12.2021

CORAM:

WEB COPY

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA
AND
THE HONOURABLE MR. JUSTICE P. VELMURUGAN

W.P(MD) NOS. 22742 and 22743 OF 2021
and
W.M.P(MD) NOS. 19231 and 19232 of 2021

A. Krishnamoorthy : Petitioner in W.P(MD) NO. 22742 OF 2021
Sangeetha : Petitioner in W.P(MD) NO. 22743 OF 2021
.vs.

1. The District Collector,
Dindigul,
Dindigul District.

2. The Tahsildar,
Natham Taluk,
Dindigul District.

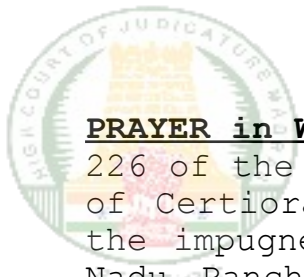
3. The Block Development Officer,
Block Development Office,
Natham,
Dindigul District.

4. The President,
Punnappatti Panchayat,
Natham Panchayat Union,
Dindigul District.

: Respondents in both W.Ps'

PRAYER in W.P(MD) No. 22742 of 2021: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned eviction notice issued under Section 133 of the Tamil Nadu Panchayat Act, 1994/Tamil Nadu Land Encroachment Act, 1905, dated 6.12.2021, on the file of the fourth respondent insofar as the Petitioner is concerned and to quash the same as illegal and consequently to issue direction to forbear the respondents from dispossessing the Petitioner from his dwelling house situated in D.No.4/12A in S.No.219 at Veerappa Naickenpatti, Punnappatti Panchayat, Natham Taluk, Dindigul District.

<https://hcservices.ecourts.gov.in/hcservices/>



PRAYER in W.P(MD)No.22743 of 2021: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned eviction notice issued under Section 133 of the Tamil Nadu Panchayat Act, 1994/Tamil Nadu Land Encroachment Act, 1905, dated 6.12.2021, on the file of the fourth respondent insofar as the Petitioner is concerned and to quash the same as illegal and consequently to issue direction to forbear the respondents from dispossessing the Petitioner from his dwelling house situated in D.No.4/36B in S.No.219 at Veerappa Naickenpatti, Punnapatti Panchayat, Natham Taluk, Dindigul District.

For Petitioner : Mr.T.Lajapathi Roy
in both Cases

For Respondents : Mr.P.Subbaraj
1 and 2 Special Govt.Pleader
in both cases

For Respondent-3 : Mr.Shanmugavel
in both cases

COMMON ORDER

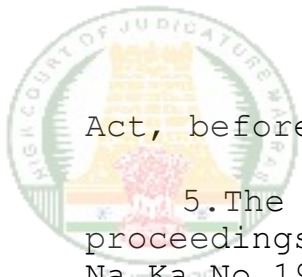
(Order of the Court was made by PUSHPA SATHYNARAYANA,J)

The challenge in these Writ Petitions is to the impugned eviction notices issued under Section 133 of the Tamil Nadu Panchayat Act, 1994 as well as the Tamil Nadu Land Encroachment Act, 1905, dated 06.12.2021.

2.Heard the learned counsel appearing on either side and perused the materials placed before this Court.

3.A common notice was issued to 13 of the persons, of which, two of them are before us. According to the Petitioners, they have been living there with individual proper electricity connection, water connection etc. It is also further stated that the Government itself had laid cement road in the said residential area. However, by virtue of the order passed in W.P(MD)No.12733 of 2021, encroachment was sought to be removed. Thereafter, the impugned eviction notices have been issued.

4.The impugned eviction notices have been issued by the fourth respondent, who is the Panchayat President. The Eviction notices were issued under two enactments, for which, two different procedures have to be adopted. In fact, under The Tamil Nadu Land Encroachment Act, 1905, after notice under Section 7 is issued, enquiry has to be conducted under Section 6 of the Act. Against which, a provision of appeal is provided under Section 10 of the



Act, before the District Collector.

5.The learned counsel for the Petitioner now produced a proceedings of the District Collector, Dindigul District in Na.Ka.No.19028/2021/D.2, dated 11.12.2021, wherein, it is stated that the encroachers mentioned in the impugned eviction notices have filed appeal before the District Collector, Dindigul and the said appeals have been sent to the Assistant Director of Panchayats, Dindigul for conducting an enquiry and to send report to the District Collector, Dindigul. The grievance of the Petitioners is that the appellate authority himself had authorised the Assistant Director of Panchayats, Dindigul to conduct an enquiry on the appeal filed by the Petitioners. Besides there were also ways to proceed under the Tamil Nadu Panchayat Act,1994 or under the Tamil Nadu Land Encroachment Act, 1905.

6.In such view of the matter, we are of the view that the impugned eviction notices have to be set aside and the appropriate authority should take action for eviction of the Petitioners and other encroachments concerned from the land in question, in the manner known to law.

7.With the above direction, these Writ petitions stand allowed and the impugned eviction notices, dated 6.12.2021, issued by the fourth respondent are set aside. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-III)

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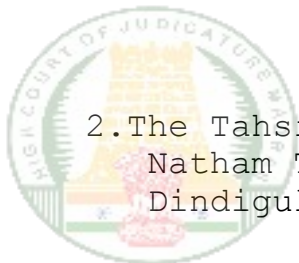
Sub Assistant Registrar(CS)

vsn

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,
Dindigul,
Dindigul District.



2.The Tahsildar,
Natham Taluk,
Dindigul District.

3.The Block Development Officer,
Block Development Office,
Natham,
Dindigul District.

4.The President,
Punnappatti Panchayat,
Natham Panchayat Union,
Dindigul District.

+2 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-40187[F] dated
23/12/2021)

+1 CC to M/s.SPL GP (SR-40254[F] dated 23/12/2021)

W.P(MD)NOS.22742 and 22743 OF 2021 and
W.M.P(MD)Nos.19231 and 19232 of 2021
22.12.2021

RD(5.01.2022) 4P 8C