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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI,
ACTING CHIEF JUSTICE

AND

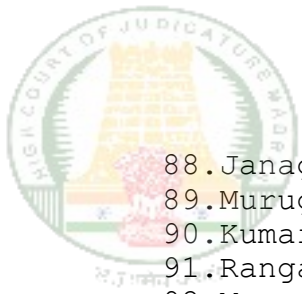
THE HON'BLE MR.JUSTICE P.D.AUDIKESAVALU

W.P.NOS.20210 AND 20219 OF 2020

- 1.B.Govindaraj
- 2.Ramachandran
- 3.Carolin Henry
- 4.Poonkothai
- 5.Vasantha
- 6.Srinivasan
- 7.Thilagavathi
- 8.Vijaya
- 9.Padmavathy
- 10.Jayalakshmi
- 11.Muthulaskhmi
- 12.Leeladevi
- 13.Vijaya
- 14.Durgadevi
- 15.Bhuvaneswari
- 16.Manimegala
- 17.Malarvizhi
- 18.Chitra
- 19.Archana
- 20.Adilakshmi
- 21.Swarnalatha
- 22.Vijayalakshmi
- 23.Raju
- 24.Bharathi
- 25.Shanthi
- 26.Fathima Mary
- 27.Rajeswari
- 28.Lakshmi
- 29.Shanthi
- 30.Malika
- 31.Banu
- 32.Neela
- 33.Vijaya
- 34.Shanthi
- 35.Amutha
- 36.Manjula
- 37.Saraswathi



38. Geethabai
39. Malliga
40. Perumal
41. Periyamayagi
42. Cathy Burulene
43. Jayalakshmi
44. Shanthi
45. Lakshmi
46. Indumathy
47. Meena
48. Lakshmi
49. Amul
50. Maheswari
51. Grace
52. Narayanammal
53. Devika
54. Muniyammal
55. Subhashini
56. Subathra
57. Vittabai
58. Govindammal
59. Dulasi
60. Duraibabu
61. Saratha
62. Devagi
63. Janakiraman
64. Devaki
65. Aarokiya Mary
66. Rani
67. Rathi
68. Saraswathi
69. Balaji
70. Sumathi
71. Karthikeyan
72. Lakshmi
73. Vijaya
74. Ponnammal
75. Rajesh
76. Mallika
77. Nagarathinam
78. Sasikala
79. Mani
80. Ramamirtham
81. Rangaraj
82. Iyappan
83. Padmavathy
84. Florence
85. Ramalu
86. Ethirajulu
87. Balakrishnan



88. Janagiraman
89. Murugesan
90. Kumar
91. Ranganathan
92. Maragadhammal
93. Neelamegan
94. Anuradha
95. Nagalakshmi
96. Mani
97. Saraswathi
98. Balaji
99. Megavathy
100. Sundararaj
101. Santhakumari
102. Dilli Babu
103. Vijaya Bala
104. Dhanambal
105. Karunakaran
106. Annakili
107. Savithiri
108. SriHari
109. M.S Saleem
110. Jayanthi

...Petitioners in W.P.No.20210/2020

1. Prema w/o Dhamodaran
2. Ezhilarasi
3. Nadhiya
4. Maragadammal
5. Anjali
6. Raghupathy
7. Valli
8. Nagalaskhmi
9. Prema w/o Ruban
10. Gowri
11. Lakshmi
12. Ponnamma
13. Prema w/o Deenadhayan
14. Datchayini
15. Sujatha
16. Dorthy Ezhilarasi
17. Ankamma
18. Mariyammal
19. Thilagavathi
20. Naveen Kumar

...Petitioners in W.P.No.20219/2020

Vs

1. The State of Tamil Nadu
Rep. by its Secretary to Government
Revenue Department
Fort St. George, Chennai - 600 009.



2.The District Collector,
Chengalpet District, Chengalpet.

3.The District Revenue Officer
Chengalpet District, Chengalpet.

4.The Thasildhar
Chengalpattu Taluk, Chengalpattu
Chengalpet District

5.The Assistant Engineer
Overseer of Water Resources Organisation,
Public Works Department
Padapai, Chengalput District.

6.The Executive Officer
Town Panchayat Chitlapakkam, Chitlapakkam
Chengalpet District.

...Respondents in both WPs

Prayer: Petitions filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus calling for the entire records of the 5th respondent From-III notice dated 16.12.2020 issued to the petitioners and quash the same and further forbearing the respondents from proceeding further the process of demolition and eviction and consequently direct them to follow the due process of law in future for the petitioners in respect of their properties situated in Survey No.256/1, Chitlapakkam Village, Tambaram Taluk, Chengalpet District.

For the Petitioners : Mr.M.Vijay Anand
(in both)

For the Respondents : Mr.J.Ravindran
(in both) Addl. Advocate General
assisted by
Mrs.R.Anitha,
Spl. Government Pleader

COMMON ORDER

(Order of the Court was made by the Hon'ble Acting Chief Justice)

The writ petitions have been filed to challenge the notices given in Form-III dated 16.12.2020 under the Tamil Nadu Protection of Tanks and Eviction of Encroachment Rules, 2007 (for short, "Rules of 2007")

2. Learned counsel for the petitioners submitted that the petitioners are residing in the land in dispute for more than 60



years and made applications for issuance of pattas. Ignoring the aforesaid, show cause notices have been issued to the petitioners in Form-III. It is even ignoring the fact that the notices aforesaid could not have been issued without conducting a survey in consonance with the Rules of 2007. A request for conducting survey was made by the petitioners, but without acceding to the aforesaid request, Form-III notices have been issued to the petitioners.

3. A reference to the earlier litigation by the petitioners and others has also been made, where the writ petition bearing W.P.No.15117 of 2020 was decided with certain directions given in paragraph 8 of the said order. Allegations have been made regarding non-compliance of the directions given therein and, accordingly, the action of the official respondents has been questioned even on that ground.

4. Learned counsel for the petitioners further submitted that the petitioners are not encroachers on the land in question and the land is otherwise not a waterbody. In view of the above, the action taken by the respondents under Rules of 2007 is not even permissible. For all the reasons aforesaid, challenge to the notices in Form-III has been made by the petitioners. It is further submitted that pursuant to the directions given in the public interest litigation in reference to encroachments on waterbody, the respondents are now taking action and show cause notices in Form-III have been issued to many persons, including the petitioners. In view of the above, a prayer is made to set aside the impugned show cause notices in Form-III dated 16.12.2020.

5. We have considered the submissions made by the petitioners. The facts on record show that the petitioners are in the second round of litigation because the first writ petition bearing W.P.No.15117 of 2020 filed by the petitioners was decided by this court by an order dated 4.11.2020. The said writ petition was disposed of by giving directions in paragraph 8. Paragraph 8 is quoted hereunder for ready reference:

"8. Therefore it is open to the 2nd respondent to take necessary steps to find out whether the superstructures put up by the petitioners herein are authorised / unauthorised / deviated and if the result of the same discloses any unauthorised / deviated / illegal construction, immediate and necessary steps will be taken in accordance with law to demolish the same, by also adhering to the principles of natural justice, in response to the impugned show cause notices issued by the 5th respondent. In the light of the submission made by the learned counsel appearing for the petitioners



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that the individual replies by enclosing relevant necessary and authenticated documents have been submitted by the petitioners through a registered post with acknowledgment, the 5th respondent is directed to consider the said representations on merits and in accordance with law and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioners and till such time, shall defer further decision in terms of the impugned notices. It is also made clear that the petitioners, till the disposal of the representations to the 5th respondent, shall not create any third party in respect of the respective lands and superstructures in question."

6. A perusal of the directions given in W.P.No.15117 of 2020 would show that the respondents therein were required to determine as to whether the superstructures put up by the petitioners are authorised or unauthorised and if it was found to be unauthorised, necessary steps were directed to be taken in accordance with law to demolish the same by adhering to the principles of natural justice. It is after taking note of the aforesaid directions that individual replies were given by the petitioners to the show cause notices and thereby, the fifth respondent be directed to consider each representation on merits and in accordance with law and pass appropriate orders within a period of four weeks from the date of receipt of the copy of the order and till a decision is communicated, the respondents were directed to defer further action pursuant to the impugned notices.

7. The directions referred to above were given when a challenge was made to the show cause notices dated 23.9.2020 asking the petitioners to appear on 01.10.2020. The said notices were not set aside by the court in the earlier litigation, rather appropriate directions were given. The respondents, in furtherance to the aforesaid, have caused notices in Form-III of Rules of 2007 which were also replied by the petitioners. No action has yet been taken and without consideration of the replies sent by the petitioners, the respondents would not proceed further in the matter. In fact, when show cause notices were earlier given, it was challenged by way of a writ petition. The directions were given therein to the respondents for action in compliance to the principles of natural justice and, accordingly, notices have been issued to the petitioners. The challenge to the same has been made on the ground that without causing a survey, further action could not have been taken. The aforesaid plea was not raised in the



earlier litigation. No direction for it was given. The petitioners have otherwise failed to show title documents of the land or pattas for it, other than to submit that the applications for issuance of pattas have been submitted. The cognizance to it was not given by the respondents as it is a waterbody.

8. In any case, we find that the action pursuant to the notices in Form-III would be taken by the respondents after complying the directions issued by this court in the earlier writ petition and, accordingly, we are not inclined to interfere with the notices issued in Form-III, but intend to dispose of the writ petitions with a direction to the respondents that after proper consideration of replies given by the petitioners, further action would be taken.

9. It is made clear that before taking further action, the respondents would cause demarcation of waterbody. The action in that regard would be completed by 31.01.2022 and, if on demarcation, any encroachment is found in the waterbody, after considering the replies submitted by the petitioners, further action to remove the encroachments would be taken as was directed by this court in the earlier litigation.

With the aforesaid observations and directions, the writ petitions are disposed of. No costs. W.M.P.Nos.24976, 24977, 24979, 24993, 24996 and 24997 of 2020 and W.M.P.No.4543 of 2021 are closed.

Sd/-
Deputy Registrar (CS)

// True Copy //

Sub Assistant Registrar

bbr

To:

- 1.The Secretary to Government
State of Tamil Nadu
Revenue Department
Fort St. George, Chennai - 600 009.
- 2.The District Collector,
Chengalpet District,
Chengalpet.
- 3.The District Revenue Officer
Chengalpet District,
Chengalpet.



4.The Thasildhar
Chengalpattu Taluk,
Chengalpattu
Chengalpet District

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5.The Assistant Engineer
Overseer of Water Resources Organisation,
Public Works Department
Padapai, Chengelput District.

6.The Executive Officer
Town Panchayat Chitlapakkam,
Chitlapakkam
Chengalpet District.

Copy To

The Section Officer,
Writ Section,
High Court, Madras.

+1cc to M/s.M.Vijay Anand, Advocate SR.No.1520

+2ccs to M/s.R.Sivakumar, Advocate SR.No.1307

+1cc to the Government Pleader, S.R.No.1943

[29/04/2022]

W.P.Nos.20210 and 20219 of 2020

KSM(CO)
RVM(19/01/2022)