



W.P.No.25671 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2022

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

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

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- 1.A.Kasthuri
- 2.Varadharajan
- 3.Savithri
- 4.P.Murugan
- 5.Thiyagarajan
- 6.R.Thirumalesh
- 7.Purushothaman Nammazhwar
- 8.S.Ganesh
- 9.Karthick Muninathan
- 10.G.Anthonysamy
- 11.A.Pushbam
- 12.K.Natesan
- 13.P.Ayyamperumal
- 14.Sriramulu
- 15.K.Jayaraman
- 16.Ponsekar

.. Petitioners

Vs

- 1.The Collector,
Rajaji Salai, Fourth Floor,
62, Beach Road, George Town,
Chennai-600 001.



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2.The Settlement Officer,
Office of the Settlement Officer,
Chepauk, Chennai-600 005.

3.The Tahsildar (Ayanavaram),
18/31, Palliarasan Street,
Aspiran Garden Colony, Kumaran Nagar,
Kilpauk, Chennai,
Tamil Nadu – 600 010.

4.Kanniammal

5.J.Venkatesan

6.Devaki Ammal

7.Shanti Krishnan

8.Neon Homes Pvt. Limited,
rep. by Ramaa Subramanian,
No.8 (Old No.7) Kasi Viswanathan Colony,
1st Street, West Mambalam,
Chennai – 600 033.

9.Muktha Ektha Enterprises,
rep. by Hitesh G.Shah,
No.77/8, V Block, 4th Main Road,
Anna Nagar, Chennai-600 040.

10.M.Jones

11.Thilaka Surya Prakasha Rao

12.S.K.Harinarayanan

13.P.Vasantha

.. Respondents



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Prayer: Petition filed under Article 226 of the Constitution of India praying for a writ of mandamus forbearing the respondents 1 to 3 from taking any action disturbing the possession and enjoyment of the petitioners in the shops, sheds and bunk properties situated in S.Nos.89/1 and 89/2, Block No.25, Town S.No.11 and 13 to an extent of 0.31.70 Hectares and 1.12.50 Hectares at Poombuhar Nagar, Kolathur Town, Ayanavaram, Chennai.

For the Petitioners : Ms.K.Subhashini
for M/s.Chennai Law Associates

For the Respondents : Mr.P.Muthukumar
State Government Pleader
for respondent Nos.1 to 3

ORDER

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

The application, being W.M.P.No.24693 of 2022, filed to permit the petitioners to file a single writ petition is allowed, subject to payment of separate sets of court-fee within a period of two weeks from the date of receipt of a copy of this order. In default of payment of court-fee, this order will be applicable to the first petitioner alone.



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2. Mrs.A.Kasthuri, wife of Anby Azhagan, residing at No.9, Sivaparvathi Nagar, Ellai Amman Koil Street, Kolathur, Chennai-99 and 15 others have jointly filed this writ petition for issuance of a writ of mandamus forbearing respondents 1 to 3 from taking any action disturbing the possession and enjoyment of the petitioners in the shops, sheds and bunk properties situated in S.Nos.89/1 and 89/2, Block No.25, Town S.No.11 and 13 to an extent of 0.31.70 Hectares and 1.12.50 Hectares at Poombuhar Nagar, Kolathur Town, Ayanavaram, Chennai.

3. Learned counsel appearing for the petitioners would submit that all the petitioners are tenants under respondents 4 to 13 occupying the property in S.Nos.89/1 and 89/3 in Block No.25, Town S.Nos.11 and 13 to an extent of 0.31.70 Hectares and 1.12.50 Hectares at Poombuhar Nagar, Kolathur Town, Ayanavaram, Chennai. He would further submit that respondents 4 to 13 have represented to the petitioners during 2005 that they are the owners of the land and, accordingly, rented out small portions of vacant land to the petitioners and collected land rent. Respondents 4 to 13 allowed the petitioners



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to construct their own bunk, petty shops and sheds in the respective leased lands by investing their own money.

4. Learned counsel further submitted that the petitioners, being tenants, have borrowed loans for construction of sheds and small structures and are living with their family and eking out their livelihood. But after some time, the original land owners suffered eviction order and they filed W.P.No.5359 of 2009 before this Court and the said writ petition also came to be dismissed on 24.4.2012. Against which, respondents 4 to 13 filed W.A.No. SR 77550 of 2021 with delay condonation application (C.M.P.No.17984 of 2021) and the same is pending before a Division Bench. In the meanwhile, the petitioners were issued with show cause notices on 22.8.2022 by the third respondent Tahsildar informing them that the land belongs to Government and was classified as "Anadeenam land" and, therefore, they are directed to submit explanation as to why all of them should not be evicted from the land within a period of seven days from the date of the order. Therefore, the petitioners have been advised to file the writ petition.



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5. Learned Government Pleader appearing for respondents 1 to 3 placed on record the communication of the Tahsildar, Ayanavaram Taluk addressed to the Special Government Pleader, Madras High Court, to the effect that all the petitioners are only encroachers and they are utilising the land for commercial purpose. Learned Government Pleader would submit that the Government intends to construct Arulmigu Kapaleeswarar Arts and Science College at Kolathur over the land in question.

6. We do not find any merit in the writ petition for two reasons. Firstly, the land owners, namely respondents 4 to 13, have already suffered dismissal of the writ petition, being W.P.No.5359 of 2009, vide order dated 24.4.2012, wherein a challenge was made to the orders dated 6.10.2008 and 24.2.2009 respectively passed against the original owners. The learned Single Judge of this Court, finding no ground to cause interference with the impugned order dated 6.10.2008 in R.P.No.1 of 2008 (E1) and the order dated 24.2.2009 in R.P.No.12 of 2018, dismissed the writ petition. As against which, writ appeal has been filed with an application for condonation of delay and



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the same is pending disposal. The aforesaid shows that even the landlords have not taken any effort to pursue the matter.

7. Secondly, when the petitioners are only tenants under the original landlords, whose claim was rejected, we do not find that the petitioners have any locus to file the writ petition. Finally, the land in question has been classified as "Anadheenam". Therefore, the petitioners have no right over the land in question.

8. Finding no merits in the writ petition, the same is dismissed. There will be no order as to costs. Consequently, W.M.P.No.24694 of 2022 is closed.

(T.R., ACJ.) (P.D.A., J.)
23.09.2022

Index : Yes/No
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