



W.P.No.25550 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 3.11.2022

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
AND

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

W.P.No.25550 of 2022
and W.M.P.No.24539 of 2022

1 D.Maheswari
2 M.Dhandapani ... Petitioners

Vs.

1 The District Collector,
Tiruppur, Tiruppur District.
2 The Revenue Divisional Officer,
Udumalpet, Tiruppur.
3 The Tahsildar
Udumalpet, Tiruppur District.
4 The President,
Kallapuram Panchayat, Kallapuram Post,
Udumalpet Panchayat Union, Tiruppur.
5 The Village Administrative Officer,
Kallapuram, Tiruppur District.
6 N.Arunachalam ... Respondents

Prayer: The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari to call for the records of order dated 6.9.2022 on the file of 4th respondent and quash the same.



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For Petitioner : Mr.K.Myilsamy
For Respondents : Mrs.R.Anitha, Spl.G.P.

ORDER

(Delivered by **D.KRISHNAKUMAR, J.**)

Aggrieved by the impugned notice dated 6.9.2022 issued by the respondent Municipality by directing the petitioner to vacate the property in S.No.729/1 classified as Natham. According to the petitioners, the petitioners are in occupation of the subject land measuring to an extent of 2613 sq.ft comprised in S.No.400/E1 situated at Kallapuram Village, Udumalpet, Tiruppur District which was originally belongs to one Eswaran Vageras vide registered partition deed dated 14.3.1973 bearing doc.No.552/1973 on the file of SRO, Udumalpet. From them, one Muthusamy purchased the said property through a registered sale deed dated 29.5.1995 bearing Doc.No.2009 of 1995 on the file of SRO, Udumalpet. From Muthusamy, the first petitioner purchased the said land for a valid sale consideration through a registered sale deed dated 21.6.2012 bearing doc.No.4425 of 2012 on the file of SRO, Udumalpet. The first petitioner after purchase had constructed a small house where the petitioner, her husband who is the second petitioner and her children are residing and leading a peaceful life without any interruption or hindrance from any one. The first petitioner had obtained electricity service connection and also paid water tax and property tax without any default. While so, the 6th respondent



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has made representations to various authorities initiating action to remove the petitioners from the subject property. Based on the said representation, eviction notice has been issued by the fourth respondent by directing the petitioner to vacate the premises failing which encroachment will be removed by the respondent Municipality. Challenging the impugned order, the instant writ petition has been filed before this Court.

2. According to the learned counsel appearing for the petitioner, the subject land is a natham land and therefore, is not vested with the Government. The fourth respondent has no jurisdiction to pass the impugned order as against the petitioners for removal of encroachment. The procedure as contemplated under Sec.131(2) of the Tamil Nadu Village Panchayat Act was not following before issuing the impugned notice and therefore, the impugned notice is liable to be set aside.

3. Per contra, the learned Special Government Pleader appearing for the respondents would submit that 'A' register produced before this Court reflects that the subject property comprised in S.No.729/1 classified as "Natham lane" (நத்தம் பாதை) and therefore, the petitioners have no right at all to encroach the said land being used by the residents of the Kallapuram Village as "Natham lane". Therefore, the writ petition is liable to be dismissed.



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4. Heard the rival submissions of the parties and perused the materials available on record.

5. A perusal of the impugned notice clearly shows that no opportunity was granted to the petitioner to place relevant documents to establish the fact that subject property comprised in S.No.729/1 is not comes under "Natham lane (நத்தம் பாதை)". The respondents should provide an opportunity to the petitioner to show that the subject property is not classified as "Natham lane". In such circumstances, we are satisfied that without giving an opportunity to the petitioners to produce relevant documents in support of their claim, the impugned notice has been served on the petitioners.

6. Such view of the matter, the impugned notice dated 6.9.2022 issued by the fourth respondent is quashed. The respondents are directed to give an opportunity to the petitioners to produce relevant documents to establish their claim and thereafter, take a decision as to whether the subject property is "Natham land" or "Natham lane" as per the revenue records. It is needless to say that if the subject land is encroached by the petitioners or any other person including the 6th respondent, the respondents shall take necessary action to remove such encroachment in accordance with law after providing opportunity to the parties concerned. The said exercise shall be completed within a period of 12 weeks from the date of receipt of copy of the order.



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7. With the above observations, the Writ petition stands allowed.

No costs. Connected miscellaneous petition is closed.

(D.K.K.J.) (T.V.T.S.J.)
3.11.2022

Speaking/Non Speaking order

Index: Yes

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To

- 1 The District Collector, Tiruppur, Tiruppur District.
- 2 The Revenue Divisional Officer, Udumalpet, Tiruppur.
- 3 The Tahsildar, Udumalpet, Tiruppur District.
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