



W.P.(MD)Nos.16675, 16685, 16728 and 16749 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.07.2022

CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**
and
THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P(MD)Nos.16675, 16685, 16728 and 16749 of 2022
and

W.M.P.(MD)Nos.12101, 12107, 12130 and 12144 of 2022

W.P(MD)No.16675 of 2022:-

S.Seenimuthu

... Petitioner

Vs.

- 1.The District Collector,
Sivagangai District, Sivagangai.
- 2.The Revenue Divisional Officer,
Devakottai, Sivagangai District.
- 3.The Tahsildar,
Devakottai Taluk, Sivagangai District.
- 4.The President,
Thidakotai Village Panchayat,
Devakottai Panchayat Union, Sivagangai District.
- 5.The Block Development Officer (Village Panchayat),
Devakottai Taluk, Sivagangai District.
- 6.The Executive Officer,
Devakottai Panchayat Union, Devakottai,
Sivagangai District.

7.Senthil

... Respondents



W.P.(MD)Nos.16675, 16685, 16728 and 16749 of 2022

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, to direct the respondents 1 to 6 herein to consider the explanation submitted by the petitioner, dated 22.07.2022 in respect of deferring with further process of removal of encroachment carried out in S.No.36/21, to the extent of 0.01.23 Hectares situated at Pagayani Village, Devakottai Taluk, Sivagangai District until the final disposal of the suit in O.S.No.70 of 2022 on the file of the District Munsif Court, Devakottai.

For Petitioner	:Mr.P.Saravanakumar
For R1 to R3	:Mr.S.P.Maharajan Special Government Pleader
For R4 to R6	:Mr.J.Ashok Additional Government Pleader
For R7	:Mr.J.Anandhakumar

W.P(MD)No.16685 of 2022:-

S.Rethinam

... Petitioner

Vs.

- 1.The District Collector,
Sivagangai District, Sivagangai.
- 2.The Revenue Divisional Officer,
Devakottai, Sivagangai District.
- 3.The Tahsildar,
Devakottai Taluk, Sivagangai District.
- 4.The President,
Thidakotai Village Panchayat,
Devakottai Panchayat Union, Sivagangai District.



W.P.(MD)Nos.16675, 16685, 16728 and 16749 of 2022

5.The Block Development Officer (Village Panchayat),
Devakottai Taluk, Sivagangai District.

6.The Executive Officer,
Devakottai Panchayat Union, Devakottai,
Sivagangai District.

7.Senthil

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, to direct the respondents 1 to 6 herein to consider the explanation submitted by the petitioner, dated 22.07.2022 in respect of deferring with further process of removal of encroachment carried out in S.No.36/21, to the extent of 0.00.07 Hectares situated at Pagayani Village, Devakottai Taluk, Sivagangai District until the final disposal of the suit in O.S.No.70 of 2022 on the file of the District Munsif Court, Devakottai.

For Petitioner :Mr.P.Saravanakumar

For R1 to R3 :Mr.T.Amjad Khan
Government Advocate

For R7 :Mr.J.Anandhakumar

W.P(MD)No.16728 of 2022:-

P.Chellam

... Petitioner

Vs.

1.The District Collector,
Sivagangai District, Sivagangai.

2.The Revenue Divisional Officer,
Devakottai, Sivagangai District.



W.P.(MD)Nos.16675, 16685, 16728 and 16749 of 2022

3.The Tahsildar,
Devakottai Taluk, Sivagangai District.

4.The President,
Thidakottai Village Panchayat,
Devakottai Panchayat Union, Sivagangai District.

5.The Block Development Officer (Village Panchayat),
Devakottai Taluk, Sivagangai District.

6.The Executive Officer,
Devakottai Panchayat Union, Devakottai,
Sivagangai District.

7.Senthil

... Respondents

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For Petitioner	:Mr.P.Saravanakumar
For R1 to R3	:Mr.S.P.Maharajan Special Government Pleader
For R4 to R6	:Mr.N.Satheesh Kumar Additional Government Pleader
For R7	:Mr.J.Anandhakumar



W.P.(MD)Nos.16675, 16685, 16728 and 16749 of 2022

W.P(MD)No.16749 of 2022:-

N.Velammal

... Petitioner

Vs.

- 1.The District Collector,
Sivagangai District, Sivagangai.
- 2.The Revenue Divisional Officer,
Devakottai, Sivagangai District.
- 3.The Tahsildar,
Devakottai Taluk, Sivagangai District.
- 4.The President,
Thidakotai Village Panchayat,
Devakottai Panchayat Union, Sivagangai District.
- 5.The Block Development Officer (Village Panchayat),
Devakottai Taluk, Sivagangai District.
- 6.The Executive Officer,
Devakottai Panchayat Union, Devakottai,
Sivagangai District.
- 7.Senthil

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, to direct the respondents 1 to 6 herein to consider the explanation submitted by the petitioner, dated 22.07.2022 in respect of deferring with further process of removal of encroachment carried out in S.No.36/21, to the extent of 0.00.05 Hectares situated at Pagayani Village, Devakottai Taluk, Sivagangai District until the final disposal of the suit in O.S.No.70 of 2022 on the file of the District Munsif Court, Devakottai.



W.P.(MD)Nos.16675, 16685, 16728 and 16749 of 2022

For Petitioner	:Mr.P.Saravanakumar
For R1 to R3	:Mr.S.P.Maharajan Special Government Pleader
For R4 to R6	:Mr.J.Ashok Additional Government Pleader
For R7	:Mr.J.Anandhakumar

COMMON ORDER

(Common Order of the Court was made by **S.S.SUNDAR, J.**)

All the Writ Petitions have been filed by different individuals, but claiming right for a small piece of land comprised in S.No.36/21 situated at Pagayani Village, Devakottai Taluk, Sivagangai District.

2.Heard the learned Counsel appearing on either side. By consent of all the parties, these Writ Petitions are taken up for final disposal at the admission stage itself.

3.The petitioners claim title to the property in S.No.36/21. It is contended by the petitioners that a civil suit has been filed for declaration of title and for consequential reliefs in respect of a small portion of the land in S.No.36/21. The suit properties are described in Schedule-A to Schedule-D comprised in S.No.36/21. None of the petitioner has produced before this Court any document to prove their title in respect of S.No.36/21. On the ground that the petitioners are in



W.P.(MD)Nos.16675, 16685, 16728 and 16749 of 2022

possession and enjoyment of the said property, the above Writ Petition is filed.

4.The learned Additional Government Pleader, on instructions, submits that the petitioners herein have encroached a portion of land in S.No.36/21, which is classified as sandhai poramboke and serving as a street and water channel.

5.Though the petitioners claim is not supported by any document, the petitioners are entitled to be heard, as persons in possession of the property, before any coercive action is taken against them. However, the learned Government Advocate, on instructions, submits that the President of the fourth respondent panchayat has already sent a communication to the third respondent requesting to take action for removal of encroachment under the Tamil Nadu Land Encroachment Act.

6.It is in these circumstances, this Writ Petition is disposed of with the following directions:

6.1.The third respondent is directed to conduct a survey after issuing notice to the petitioners and other interested persons with regard



W.P.(MD)Nos.16675, 16685, 16728 and 16749 of 2022

to the extent and the manner of encroachment made by the petitioners.

After conducting survey and preparing a report, it is open to the third respondent to initiate further proceedings under the provisions of the Tamil Nadu Land Encroachment Act.

6.2.It is made clear that the third respondent is expected to hold an enquiry and proceed further with the removal of encroachment after conducting survey in the presence of the petitioners. If the encroachment is confirmed, the third respondent is directed to issue show cause notice to the petitioners and then pass final orders after considering the objection/representation, if any received from the petitioners. Any order that may be passed will be subject to the outcome or decree that may be passed in the suit.

6.3.Till such time the third respondent pass final orders regarding removal of encroachment, the respondents are directed to maintain status-quo.

6.4.It is open to the petitioners to pursue the pending suit and seek appropriate interim orders.

No costs. Consequently, connected miscellaneous petitions are closed.

[S.S.S.R., J.] [S.S.Y., J.]
28.07.2022

Index : Yes / No
cmr



W.P.(MD)Nos.16675, 16685, 16728 and 16749 of 2022

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