



W.P.No.35276 of 2007

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.09.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.35276 of 2007
and M.P.Nos.2 of 2007 & 1 of 2010

1.Govindan
2.Ambika
3.Chinnaponnu

...Petitioners

Vs.

1.The District Collector,
Cuddalore, Cuddalore District.

2.The Revenue Divisional Officer,
Virudhachalam, Cuddalore District.

3.The Tahsildar,
Virudhachalam, Cuddalore District.

4.R.D.Ranganathan [Died]

5.R.Kalyani

6.R.D.R.Ramesh

...Respondents

[R4 impleaded as per order dated
29.01.2013 made in M.P.No.1 of 2011]
[R5 and R6 impleaded as per dated
05.09.2023 made in M.P.No.1 of 2014]



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Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records of the proceedings in Na.Ka.A.7/3092/2004 dated 03.09.2007 from the file of the 3rd respondent and quash the same.

For Petitioners	:	Mr.K.Gandhi Kumar
For R1 to R3	:	Mr.G.Krishna Raja Additional Government Pleader
For R5 & R6	:	Mrs.D.Malarvizhi

ORDER

The notice dated 03.09.2007 issued by the Tahsildar, Virudhachalam asking the petitioners to vacate the Government poromboke land and hand over possession within a period of fifteen days under the provisions of the Tamil Nadu Land Encroachment Act, 1905 is under challenge in the present writ petition.

2.The learned Additional Government Pleader appearing for the respondents 1 to 3 made a submission that the subject land is classified as Government poromboke and it was assigned in favour of one Ganapathy



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Nadar in the year 1950. The writ petition filed by the said persons ended in Writ Appeal No.881 of 2000 and the Division Bench of this Court passed an order on 12.02.2004 holding that the subject land belongs to the Government. The subsequent writ petition filed by the writ petitioners in W.P.No.7367 of 2006 was also dismissed by this Court on 16.03.2006.

3.After the declaration made by the Hon'ble Division Bench of this Court that the subject property is a Government land and consequent to the dismissal of the writ petition filed by the petitioners herein, the Tahsildar issued a notice under the provisions of the Tamil Nadu Land Encroachment Act, 1905. The said notice is under challenge in the present writ petition and the writ petition is kept pending for the past about sixteen years.

4.The petitioner who appeared before this Court made a submission that he is the owner of the subject land.

5.However, the learned Additional Government Pleader made a submission that all the petitioners are encroachers and they have no right



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whatsoever in respect of the property belonging to the Government already declared by this Court in the writ appeal.

6.No writ against the notice issued under the Tamil Nadu Land Encroachment Act is entertainable unless such notice has been issued by an incompetent authority having no jurisdiction or tainted with allegation of malafides. In the present case, the petitioner has not established any such ground for the purpose of considering the writ petition. Thus, the writ petition is not entertainable.

7.In view of the fact that the petitioners have successfully dragged the writ proceedings for sixteen years by merely challenging the notice issued under the Tamil Nadu Land Encroachment Act, the respondents 1 to 3 are directed to conduct an enquiry by affording opportunity to the writ petitioners within a period of two weeks from the date of receipt of a copy of this order and thereafter initiate all appropriate actions to evict the encroachers in order to protect the Government properties. If at all the petitioners claim any right, they are at liberty to submit the documents to the



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authority concerned for the purpose of establishing their case. The

respondents 1 to 3 are directed to complete the enquiry and pass orders.

8. Accordingly, the writ petition is devoid of merits and stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

9. Post the matter on **25.09.2023** under the caption 'For reporting compliance'.

05.09.2023

cse

Index: Yes/No

Neutral Citation: Yes/No

Speaking order/Non-speaking order

Note: Issue order copy on 07.09.2023



WEB COPY



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S.M.SUBRAMANIAM, J.

cse

To

- 1.The District Collector,
Cuddalore, Cuddalore District.
- 2.The Revenue Divisional Officer,
Virudhachalam, Cuddalore District.
- 3.The Tahsildar,
Virudhachalam, Cuddalore District.

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