



WEB COPY



W.P.Nos.4295 and 4296 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: **14.2.2023**

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THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.Nos.4295 and 4296 of 2023

Sakthivel	...	Petitioner in W.P.No.4295 of 2023
Chinnu	...	Petitioner in W.P.No.4296 of 2023

Versus

1.The State of Tamil Nadu
Rep by its Secretary
Housing and Urban Development Department
Fort St.George, Chennai – 9

2.The District Collector
Office of The District Collectorate,
Salem District.

3. The Executive Officer (cum)
The President of Village,
Kottamettupatti Village,
Omalur Taluk,
Salem District.
W.Ps.

... Respondents in both

Prayer in both Writ Petitions :

The Writ Petitions are filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus, to direct the 3rd respondent not to disturb the petitioner till the disposal of the appeal pending and direct the third respondent to consider the petitioners' representation dated 06.02.2023.



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For Petitioner in both W.Ps. : Mr.M.Vijaya Ragavan
For Respondents in both W.Ps.: Mr.Karthik Jeganath, for R1 & 2
Government Advocate

Mr.M.R.Gokulakrishnan for R3
Additional Government Pleader

COMMON ORDER

The prayer as sought for in both the writ petitions are similar in nature and directed against the very same respondents and hence, both the writ petitions are heard together and disposed of by common order.

2. The grievance of the petitioners are that notice under Sections 131 (2) and 222 of Tamil Nadu Panchayat Act read with 56 and 57 of Town and Country Planning Act served on the petitioner. Since the petitioners have filed appeal against the notice before the appropriate authority, seeks direction to the respondents not to take any action till the appeals are disposed off.

3. At the outset, this Court is of the view that since the petitioners have encroached the property belonging to the Government, the respondents shall proceed against the petitioner under Tamil Nadu Land Encroachment Act. Such view of the matter, it is well open to the petitioners to challenge any such notice issued by the third respondent. Admittedly, the petitioners have encroached the property, the petitioner cannot prevent the action to be taken by the respondent



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as per law. Revenue records also shows that the property belongs to the

Government.

4. Accordingly, the writ petitions stand dismissed. However, the respondent shall not evict the petitioners without following due procedure by issuing notice under Sections 6 and 7 of the Tamil Nadu Land Encroachment Act and liberty is also granted to the petitioners to challenge the notice issued under Sections 6 and 7 of the Tamil Nadu Land Encroachment Act. No costs.

14.02.2023

Neutral Citation : Yes/No
Speaking/Non Speaking order : Yes/No
Index : Yes/No
Internet : Yes/No
dhk

To

1.The Secretary
State of Tamil Nadu
Housing and Urban Development Department
Fort St.George, Chennai – 9

2.The District Collector
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3. The Executive Officer (cum)
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Dated: 14.02.2023