



WEB COPY



W.P.Nos.2469, 2471 & 2470 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2023

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.Nos.2469, 2470 & 2471 of 2015 and
W.M.P.Nos.17568, 17569 & 17570 of 2018

P.S.Hamsa Kutty	..	Petitioner in W.P.No.2469 of 2015
P.S.Alikutty	..	Petitioner in W.P.No.2470 of 2015
P.S.Abdul Azeez	..	Petitioner in W.P.No.2471 of 2015

VS

1. The District Collector
Nilgiris at Udhagamandalam
Ooty.
2. The Tahsildar
Gudalur Taluk
Gudalur, The Nilgiris.
3. The Revenue Inspector
Gudalur Taluk
Gudalur, The Nilgiris.

Respondents in
all W.Ps

Prayer in W.P.Nos.2469 & 2471 of 2015: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, forbearing the possession, occupation and enjoyment of the subject matter of the property comprised R.S.No.108/2 of Gudalur Village, Gudalur Taluk, Nilgiris District measuring an extent of 2.00 acres together with a building constructed in the said lands except by due process of law;

Prayer in W.P.No.2470 of 2015: Writ Petition filed under Article 226 of



W.P.Nos.2469, 2471 & 2470 of 2015

the Constitution of India for issuance of a Writ of Mandamus, forbearing the possession, occupation and enjoyment of the subject matter of the property comprised Survey No.79 and 108/2 of Gudalur Village, Gudalur Taluk, Nilgiris District measuring an extent of 2.30 acres together with a building constructed in the said lands except by due process of law.

For Petitioner in

all W.Ps : Mr.K.A.Ramakrishnan

For Respondents in

all W.Ps : Mr.T.Arun Kumar
Additional Government Pleader

COMMON ORDER

These writ petitions are filed to forbear the respondents from interfering with the peaceful possession, occupation and enjoyment of the subject properties as prescribed in the writ petitions.

2. The petitioners state that they are in possession and enjoyment of the properties to an extent of about 2 acres in Gudalur Village, Gudalur Municipality, Nilgiris District, originally belonging to one Janmom of Nilambur Kovilagam.

3. In respect of these Janmom properties, the matter went up to the Hon'ble Supreme Court of India and the Act was upheld by the Hon'ble Supreme Court of India and consequently, the issues are to be enquired into by the competent authorities with reference to the Act and the other



proceedings. The Act provides procedures for grant of patta and to deal with the properties.

4. The learned Additional Government Pleader appearing on behalf of the respondents referred to the counter affidavit filed by the Tahsildar, Gudalur and the relevant portion reads as under:

“The Honourable District Munsif Court, Gudalur while disposing the suit O.S.No.40 of 2009 dated 29.02.2012 held among the other orders that “the order of injection would not prevent the defendants to proceed against the plaintiff in the manner known to law”. It is clear from the Hon'ble Lower Court order that the Collector of Nilgiris District, the Revenue Divisional Officer, Gudalur and the Tahsildar, Gudalur those who were impleaded as defendants No.1, 2 and 3 respectively in the suit No.4 of 2009 are not prevented to take action to evict the encroachment in the Government land comprised in S.No.108/2 of Gudalur Village of Gudalur Taluk. Further the Honourable District Munsif Court, Gudalur has also dismissed the claim of the petitioner regarding the relief of adverse possession by its order in suit No.40 of 2009 dated 29.02.2012. Therefore, the claim of the petitioner that the Honourable District Munsif Court, Gudalur decreed the suit in



WEB COPY



W.P.Nos.2469, 2471 & 2470 of 2015

favour of the petitioner is not correct and not maintainable.

.....

Further 'B' memo penal amount is levied upon the encroachers of the Government land on the basis of Registered Encroachers Records. Further collection of penal rent via 'B' memo from the petitioner cannot strengthen the case of the petitioner. The Hon'ble District Court while disposing the C.M.A.13 of 2005 and I.A.No.87 of 2005 by its order dated 22.12.2005 has made the following observation as regards encroachment in Government lands. "While considering the claim of the appellant, it is pertinent to point out that his Lordship Justice Thiru.P.Shanmugam has held that though the individual has claimed that he has occupied the land of the Government, that such land occupied by encroachment cannot be treated as occupied land and the payment of penal levy will not regularize their occupation."

5. In view of the said submissions, this Court is of the considered opinion that the relief as such sought for in these writ petitions deserves no merit consideration. However, the first respondent / District Collector is directed to look into the issues and if any illegal encroachment or otherwise is found, appropriate actions, in the manner known to law, are to be



W.P.Nos.2469, 2471 & 2470 of 2015

initiated. In the event of any encroachment, the first respondent has to issue notice, as contemplated under the provisions of the Tamil Nadu Land Encroachment Act, 1905 and thereafter, conduct an enquiry and initiate appropriate actions.

6. With these directions, the writ petitions are disposed of. There will be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

Index : Yes/No
Neutral Citation : Yes/No

25.04.2023

drm

To:

1. The District Collector
Nilgiris at Udhagamandalam
Ooty.
2. The Tahsildar
Gudalur Taluk
Gudalur, The Nilgiris.
3. The Revenue Inspector
Gudalur Taluk
Gudalur, The Nilgiris.



WEB COPY



W.P.Nos.2469, 2471 & 2470 of 2015

S.M. SUBRAMANIAM, J.

drm

W.P.Nos.2469, 2470
& 2471 of 2015

25.04.2023