



W.P.No.7404 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2023

CORAM

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Writ Petition No.7404 of 2023

1. S.Valupurasamy
2. M.Nachimuthu
3. V.Chitra .. Petitioners

Vs.

1. State of Tamil Nadu
Rep. by its Principal Secretary to Government
Revenue Department, Secretariat
Fort St. George
Chennai 600 009.
2. The District Collector
Tiruppur District
Tiruppur.
3. The Tahsildar
Tiruppur South Taluk
Tiruppur.
4. The Revenue Inspector
South Avinashipalayam Inner Circle
Koduvai, Tiruppur South Taluk
Tiruppur District.



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5. The Assistant Engineer (O & M)
Pollikalipalayam (South) TANGEDCO
Tiruppur South Taluk
Tiruppur District.

.. Respondents

Prayer: Writ Petition under Article 226 of the Constitution of India praying for a writ of Mandamus directing the first respondent to dispose of the stay application filed by the petitioners dated 23.01.2023 along with the revision petition filed against the order passed in the appeal in Ne.Mu.No.25177/2022/Aa3 dated 04.01.2023 on the file of the second respondent confirming the eviction notice issued by the third respondent under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 dated 11.08.2022 and till such time, the respondents 1 to 4 not to evict the petitioners from the land situated in S.No.31/1C of Alagumalai Village, Tiruppur South Taluk, Tiruppur, to the extent of 3.94 acres.

For the Petitioner : Mr.S.Doraisamy

For the Respondents : Mr.P.Muthukumar
State Government Pleader

ORDER

(Made by the Hon'ble Acting Chief Justice)

The petitioners seek a direction to the first respondent to dispose of the stay application dated 23.01.2023 along with the



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revision petition filed against the order dated 04.01.2023 passed by the second respondent.

2. Mr.S.Doraisamy, learned counsel for the petitioners submitted that when the petitioners have been in lawful possession and enjoyment of the property in question on the basis of registered sale deed dated 01.12.1989, the issuance of notice under Section 7 is illegal, impermissible and unsustainable. He further contended that when the revision before the Government challenging the dismissal of the appeal, which was filed against the notice under Section 6 of the Act, is pending, the proceedings dated 07.02.2023 issued by the third respondent stating the encroachments will be removed on 11.02.2023 is erroneous.

3. Learned counsel also contended that no order has been passed till date stating that the purchase of the land in question by the petitioners from the assignee of the land was unlawful and therefore, the petitioners are encroachers and are in unlawful possession. Without there being any order passed against the vendor and the petitioners having purchased the land only after getting



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encumbrance certificate, the issuance of eviction notice under the Act is unacceptable and unsustainable in law. He, therefore, pleaded that till the disposal of the revision, the petitioners shall not be evicted from the land in question.

4. Learned State Government Pleader submitted that both the District Collector and the Tahsildar have found against the petitioners as the land in question was assigned to the person belonging to Scheduled Caste making it clear that the land in question should not be sold to a person not belonging to Scheduled Caste and since the land in question was sold to the persons who do not belong to Scheduled Caste, it amounts to violation of the assignment order leading to cancellation of the assignment. Hence, eviction proceedings has been initiated.

5. Learned Government Pleader submitted that since the revision filed by the petitioners before the Government is pending, the respondents will consider the same and pass orders.

6. In view of the above submission, this writ petition is



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disposed of directing the first respondent to consider the revision filed by the petitioners, in the light of the arguments advanced by the petitioners and pass appropriate orders, on merits and in accordance with law, within three months from the date of receipt of a copy of this order. In the meanwhile, the petitioner's possession shall not be disturbed and the electricity connection of the petitioners, which was disconnected, be restored. There will be no order as to costs. Consequently, WMP Nos.7486 to 7488 of 2023 are closed.

(T.R., ACJ.) (D.B.C., J.)
10.03.2023

Index : Yes/No
Neutral Citation : Yes/No

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To

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