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W.P.Nos.3912-3914/2018



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 12-07-2023

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

AND

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.P.Nos.3912, 3913 & 3914 of 2018

D.Thiyagarajan @ Thiyagu ... Petitioner in all W.Ps.

-VS-

1.The District Collector,
Thiruvallur District,
Thiruvallur.

2.The Secretary to the Government,
Revenue & Disaster Management Department,
Fort St.George,
Chennai – 600 009.

3.The Tahsildar,
Thiruvallur Taluk,
Thiruvallur.

4.Mr.Tamilselvan ... Respondents in all W.Ps.

W.P.No.3912 of 2018 is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the District Collector,



Thiuvallur, the First Respondent herein, and the Secretary to the Government, Revenue & Disaster Management Department, the Second Respondent herein, to forthwith restore to the Petitioner the vacant land of 3 cents in S.No.93/2 of No.89, Veppampattu Village, Thiruvallur Taluk and District, in which the Petitioner's demolished house was standing.

W.P.No.3913 of 2018 is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the District Collector, Thiuvallur, the First Respondent herein, and the Secretary to the Government, Revenue & Disaster Management Department, the Second Respondent herein, to pay the Petitioner a compensation of Rs.10.00 lakhs, for the forcible eviction and illegal demolition of the Petitioner's house that was standing in S.No.93/2 of No.89, Veppampattu Village, Thiruvallur Taluk and District, and for the agony, anguish, suffering, distress and ignominy that the Petitioner and his family were subjected to such forcible eviction and illegal demolition.

W.P.No.3914 of 2018 is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the District Collector, Thiuvallur, the First Respondent herein, and the Secretary to the Government, Revenue & Disaster Management Department, the Second Respondent herein, to initiate necessary action against the Tahsildar, Thiruvallur, the Third Respondent herein, who was responsible for the illegal, unlawful and autocratic eviction and demolition of the Petitioner's house that was standing in S.No.93/2 of No.89, Veppampattu Village, Thiruvallur Taluk and District.



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For Petitioner : Mr.G.Gopinath

For Respondents 1 to 3 : Mr.J.Ravindran,
Additional Advocate General,
assisted by Mr.A.Selvendran,
Special Govt.Pleader.

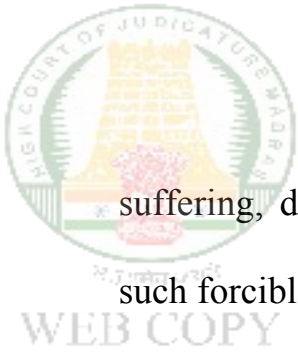
ORDER

(By *S.Vaidyanathan,J.*)

These Writ Petitions have been filed for the following reliefs :

W.P.No.3912 of 2018 is filed for issuance of a Writ of Mandamus directing the District Collector, Thiruvallur, first respondent herein, and the Secretary to the Government, Revenue & Disaster Management Department, second respondent herein, to forthwith restore to the petitioner the vacant land of 3 cents in S.No.93/2 of No.89, Veppampattu Village, Thiruvallur Taluk and District, in which the petitioner's demolished house was standing.

W.P.No.3913 of 2018 is filed for issuance of a Writ of Mandamus directing the District Collector, Thiruvallur, first respondent herein, and the Secretary to the Government, Revenue & Disaster Management Department, second respondent herein, to pay the petitioner a compensation of Rs.10.00 lakhs, for the forcible eviction and illegal demolition of the petitioner's house that was standing in S.No.93/2 of No.89, Veppampattu Village, Thiruvallur Taluk and District, and for the agony, anguish,



suffering, distress and ignominy that the petitioner and his family were subjected to such forcible eviction and illegal demolition.

W.P.No.3914 of 2018 is filed for issuance of a Writ of Mandamus directing the District Collector, Thiruvallur, first respondent herein, and the Secretary to the Government, Revenue & Disaster Management Department, second respondent herein, to initiate necessary action against the Tahsildar, Thiruvallur, third respondent herein, who was responsible for the illegal, unlawful and autocratic eviction and demolition of the petitioner's house that was standing in S.No.93/2 of No.89, Veppampattu Village, Thiruvallur Taluk and District.

2. According to the petitioner, he was in occupation of the land and building, which was constructed by his father in an extent of 3 cents in Survey No.93/2 at Door No.89 of Veppampattu Village, Thiruvallur Taluk and District, after the passing away of his father in the year 2013. Ever since 1983, necessary tax has been paid to the Government, apart from payment of tax to the local panchayat up to the year 2017. He had been living in the said house for more than three decades. He also holds Ration Card, Electricity Service connection, Water connection, Aadhaar, Voter ID etc. He belongs to the lowest stratum of the society and is a daily wage labourer, earning daily bread. A Writ Petition was filed by a third party in W.P.No.34207 of 2014, alleging that the petitioner and others have encroached the Government land and that the same had got to be removed. On 20.12.2016, a Division Bench of this Court disposed of the said



Writ Petition, holding that the encroachment, if any, should be removed in accordance with law. Relevant Paragraph of the said order is extracted below :

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"3. We direct the District Collector/respondent No.1 to cause an inspection of the site within fifteen days from the date of receipt of the copy of the order and, if any encroachment is found, to take action in accordance with law and conclude the same within a maximum period of three months thereafter."

3. The further case of the petitioner is that a notice was issued to him under Section 7 of the Tamil Nadu Land Encroachment Act,1905, whereby he was called upon to show cause as to why action should not be taken to evict him, pursuant to which he submitted a written explanation, emphasising that he was residing with his family for 35 years, and requested that action might be dropped. That apart, he requested for patta in his favour, enclosing the documents mentioned supra. He was hoping for patta to be issued, but, an order under Section 6 of the Tamil Nadu Land Encroachment Act,1905, was served. He would further submit that the officials brought JCB machines and demolished the building. He had no other option except to approach this Court seeking for the prayers, including restoration of the land and building apart from payment of compensation of Rs.10.00 lakhs. His specific case is that demolition of the house was in violation of law and contrary to the procedures laid down in various statutes. Also, the order under Section 6 of the Tamil Nadu Land Encroachment



Act,1905, was passed on 30.10.2017, which was served on the same day and within two days the building was demolished on 01.11.2017. Accordingly, he was not given any time to vacate the premises. Further, an appeal lay to the District Collector and even without waiting for the period of appeal time, demolition was resorted to.

4. Respondents have filed a counter, stating that after passing of the order by this Court in W.P.No.34207 of 2014 on 20.12.2016, which is extracted supra, necessary action was taken and it was found that the land in question was a Cart Track land, which was classified as Government Poramboke as per the village records. Following the norms prescribed under the Tamil Nadu Land Encroachment Act,1905, notice under Section 7 was issued to the encroachers, including the petitioner, on 30.07.2017, offering an opportunity to show cause why the encroachments should not be removed. As the encroachers, including the petitioner, failed to submit their explanation, a notice under Section 6 was issued on 30.10.2017 to enable them to remove the encroachments. After following the due process of law and after intimating the petitioner, the encroachment has been removed on 02.11.2017. It is further stated that though the petitioner is stated to have given a representation on 16.08.2017, there is no proof to show that such a representation was made. Taking note of the oral request made by the petitioner seeking time, on humanitarian grounds, time was granted to him till the next day to vacate the premises and only thereafter eviction was carried out.



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5. When the matter was taken up by another Division Bench earlier, this Court posed a question to the respondents as to whether the land could be given to the petitioner, believing that the petitioner was landless poor, pursuant to which steps have been taken by the Tahsildar to ascertain the genuineness of the request of the petitioner.

6. Today, a communication from the Tahsildar, Thiruvallur, has been produced by the learned Special Government Pleader, which is scanned below :

அனுப்புநர்

ந.மதியழகன்,
வட்டாட்சியர்,
திருவள்ளூர்

பெறுநர்

அரசு வழக்குரைஞர்,
சென்னை உயர்நீதிமன்றம்,
சென்னை.

ந.க. எண்.1018/2023/ஆ2, நாள்.23-02-2023.

அய்யா,

பொருள்: வழக்கு - திருவள்ளூர் மாவட்டம் மற்றும் வட்டம் -திருவூர் குறுவட்டம் - நெ.89 பெருமாள்பட்டு கிராமம் - திரு.தியாகராஜன் த/பெ.தனபால் - இலவச வீட்டுமனை பட்டா வழங்க கோரி - சென்னை உயர்நீதிமன்றத்தில் தொடரப்பட்ட வழக்கு — தொடர்பாக.

பார்வை: மனுதாரர் திரு.தியாகராஜன் த/பெ.தனபால் என்பவர் சென்னை உயர்நீதிமன்றத்தில் தொடரப்பட்ட வழக்கு W.P.3912 to 3914 of 2018

திருவள்ளூர் மாவட்டம் மற்றும் வட்டம், திருவூர் குறுவட்டம், நெ.89 பெருமாள்பட்டு கிராமம், திரு.தியாகராஜன் த/பெ.தனபால் என்பவர் சென்னை உயர்நீதிமன்றத்தில் இலவச வீட்டுமனை பட்டா வழங்க கோரி சென்னை உயர்நீதிமன்றத்தில் தொடரப்பட்ட வழக்கு தொடர்பாக விசாரணை மேற்கொண்டதில், மனுதாரர் திரு.தியாகராஜன் த/பெ.தனபால் என்பவர் நெ.25 வேப்பம்பட்டு ஒன்றியத்தில் வார்டு உறுப்பினராகவும், அவரது மனைவி திருமதி. கிருபாவதி என்பவர் வேப்பம்பட்டு ஒன்றிய கவுன்சிலராகவும் பதவி வகிப்பதால், மனுதாரருக்கு இலவச வீட்டுமனை பட்டா வழங்க இயலாது என்பதை பணிவுடன் தெரிவித்துக்கொள்கிறேன்.

தங்கள் உண்மையுள்ள,

வட்டாட்சியர்/நாடு,
திருவள்ளூர்

23/02/2023



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From the above, it is clear that the petitioner is holding the post of Ward Member and his wife is holding the post of Ward Councillor. In addition, the learned Special Government Pleader also submitted that the petitioner is having lands in his name and it is incorrect to state that he is landless poor.

7. Though this is a fit case for imposing costs on the petitioner, we refrain from doing so. The statement across the Bar that the petitioner is landless poor cannot be accepted. Further, though the wrong statement on behalf of the litigant has been made by the counsel, which attracts an offence under Section 191 of the Indian Penal Code read with Sections 195 and 340 of the Criminal Procedure Code, we warn the petitioner from making such incorrect statements.

8. Writ Petitions are dismissed accordingly. No costs.

Index : Yes/No
Internet : Yes/No
dixit

(S.V.N.,J.) (K.R.S.,J.)
12-07-2023

To

1.The District Collector,
Thiruvallur District,
Thiruvallur.



2.The Secretary to the Government,
Revenue & Disaster Management Department,
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3.The Tahsildar,
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W.P.Nos.3912-3914/2018



S.VAIDYANATHAN,J.
AND
K.RAJASEKAR,J.

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