



W.P.Nos.11534 of 2023 etc.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.04.2023

CORAM :

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

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.Nos.11534, 11536, 11537 and 11538 of 2023

Saroja	.. Petitioner in W.P.No.11534/2023
Paunammal	.. Petitioner in W.P.No.11536/2023
Jothi	.. Petitioner in W.P.No.11537/2023
Sampath @ Chinnammal	.. Petitioner in W.P.No.11538/2023

Vs

- 1.The District Collector,
Salem District,
Room No.101, First Floor,
Collectorate, Fort Main Road,
Salem-636 001.
- 2.The Tahsildar,
Salem – West Taluk,
Main Road, Subramania Nagar,
Suramangalam,
Salem – 636 302.



W.P.Nos.11534 of 2023 etc.

3. The Village Administrative Officer,
Maramangalathupadi,
Maramangalathupadi Village Office,
Salem – 636 030.

.. Respondents in
all WPs

Prayer: Petitions filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus to call for the records of the second respondent comprised in impugned notices dated 1.8.2022 issued under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 and quash the same and further direct the 1st and 2nd respondents to conduct necessary enquiry and issue a patta for the said property situated in Survey Nos.24/1, 24/3, Keerapappampadi Village, Salem West Taluk, Salem District, situated within the Sub-Registration District of Tharamangalam and the Registration District Salem West, in favour of the petitioners and consequently forbear the respondents from evicting the petitioners without following the due process of law.

For the Petitioners : Mr.J.V.Sakthi Baalakrishnan

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

COMMON ORDER

(Order of the court was made by the Hon'ble Acting Chief Justice)

These writ petitions have been filed by the petitioners challenging the impugned notices dated 1.8.2022 issued by the second respondent under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 [for short, "*the Act of 1905*"] and to direct



W.P.Nos.11534 of 2023 etc.

respondents 1 and 2 to conduct an enquiry and issue patta for Survey Nos.24/1 and 24/3 situate at Keerapappampadi Village, Salem West Taluk, Salem District in favour of the petitioners. The petitioners also pray to forbear the respondents from evicting them from the land in question without following the due process of law.

2. Learned counsel appearing for the petitioners submitted that the petitioners are all indigent farmers residing in Keerapappampadi Village and carrying on agricultural activities in the properties comprised in Survey Nos.24/1 and 24/3 situate at Keerapappampadi Village. He would submit that the petitioners are in absolute possession and enjoyment of the lands in question and the adangal and chitta were also issued in favour of the petitioners. Despite having absolute ownership and being in continuous possession and enjoyment of the land in question, patta for the said property was not issued in favour of the petitioners, he pleaded.

3. Learned counsel for the petitioners further submitted that several representations were given to the respondent authorities for



W.P.Nos.11534 of 2023 etc.

issuance of patta in favour of the petitioners and even the President of Keerapappampadi Panchayat had written letters to the second respondent informing his consent and no objection for issuance of patta in favour of the petitioners. However, without considering the request of the petitioners for issuance of patta in favour of them for the land in question, an attempt was made to disturb the petitioners from the possession and enjoyment of the land in question, which necessitated the petitioners to file a civil suit in O.S.No.650 of 2018 before the District Munsif Court, Salem arraying the respondents herein as defendants and the said suit is now pending trial. According to learned counsel, the petitioners are paying the property tax for the land in question without any default.

4. Adding further, learned counsel for the petitioners submitted that despite informing the respondent authorities that the civil suit is pending, without issuing notice under Section 7 of the Act of 1905, the second respondent has issued the impugned notices under Section 6 of the Act of 1905 to the petitioners. Challenging the same, the petitioners are before this Court.



W.P.Nos.11534 of 2023 etc.

WEB COPY

5. Per contra, learned State Government Pleader appearing for the respondents would submit that the argument of learned counsel for the petitioners that there was no notice issued under Section 7 of the Act of 1905 cannot be sustained legally, as the legal notice dated 17.3.2023 issued by the counsel for the petitioners, annexed with the writ petition at page 85 (W.P.No.11534 of 2023) clearly disproves the stand taken by the petitioners and a bare reading of the legal notice dated 17.3.2023 would clearly indicate that notices under Section 7 of the Act of 1905 followed with notices under Section 6 of the Act of 1905 were issued to the petitioners.

6. Learned State Government Pleader further submitted that since learned counsel for the petitioners in his argument repeatedly stated before this Court that appeals have been filed by the petitioners before the District Collector challenging the notices issued under Section 6 of the Act of 1905, taking note of the said submission of learned counsel for the petitioners, the writ petitions



W.P.Nos.11534 of 2023 etc.

may be dismissed by directing the first respondent/District Collector to dispose of the appeals within a prescribed time.

7. Since challenging the notices issued under Section 6 of the Act of 1905 the petitioners have filed appeals under Section 10 of the Act of 1905 before the first respondent/District Collector, exercising jurisdiction under Article 226 of the Constitution of India, this Court cannot go into the merits of the impugned notices.

8. Accordingly, the writ petitions are dismissed. However, we direct the first respondent/District Collector to dispose of the appeals preferred by the petitioners against the notices issued under Section 6 of the Act of 1905, on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order. It is also open to the petitioners to seek stay, if so advised, before the first respondent/District Collector in the pending appeal.

There will be no order as to costs. Consequently, W.M.P.Nos.



W.P.Nos.11534 of 2023 etc.

11426, 11428, 11431, 11433, 11427, 11429, 11430 and 11432 of 2023 are closed.

(T.R., ACJ.) (D.B.C., J.)
13.04.2023

Index : No
Neutral Citation : No
sasi

To:

- 1.The District Collector,
Salem District,
Room No.101, First Floor,
Collectorate, Fort Main Road,
Salem-636 001.
- 2.The Tahsildar,
Salem – West Taluk,
Main Road, Subramania Nagar,
Suramangalam,
Salem – 636 302.
- 3.The Village Administrative Officer,
Maramangalathupadi,
Maramangalathupadi Village Office,
Salem – 636 030.



WEB COPY



W.P.Nos.11534 of 2023 etc.

THE HON'BLE ACTING CHIEF JUSTICE
AND
D.BHARATHA CHAKRAVARTHY, J.

(sasi)

W.P.Nos.11534, 11536, 11537 and 11538 of 2023

17.04.2023