



W.P.Nos.11378, 11381, 11466, 11469 and 11474 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.04.2023

CORAM :

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

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.Nos.11378, 11381, 11466, 11469 and 11474 of 2023

Pachaiyammal	.. Petitioner in W.P.No.11378/2023
Shanthi	.. Petitioner in W.P.No.11381/2023
Neela	.. Petitioner in W.P.No.11466/2023
Seerangan	.. Petitioner in W.P.No.11469/2023
Allamelu	.. Petitioner in W.P.No.11474/2023

Vs

1.The District Collector,
Salem District,
Room No.101, First Floor,
Collectorate, Fort Main Road,
Salem-636 001.



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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.

.. 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 No.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.K.Ravi Anandapadmanaban
Senior Advocate
for Mr.J.V.Sakthi Baalakrishnan

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



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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 respondents 1 and 2 to conduct an enquiry and issue patta for Survey No.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 senior counsel appearing for the petitioners submitted that the petitioners are all indigent farmers residing in Keerapappampadi Village and carrying on agricultural activities in the property consisting of all that piece and parcel of the land and building measuring an extent of 62 cents comprised in Survey No.24/3 situate at Keerapappampadi Village. He would submit that



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the petitioners have purchased the said land from the predecessors in title by way of registered sale deeds dated 8.10.2009 and 26.6.2009 respectively which were registered in the office of the Sub-Registrar, Tharamangalam. From the date of purchase, the petitioners are in absolute ownership and continuous possession of the land 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.

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



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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 senior counsel, the petitioners are paying the property tax for the land in question without any default.

4. Adding further, learned senior counsel 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.

5. Per contra, learned State Government Pleader appearing for the respondents would submit that the argument of learned senior counsel 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



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with the writ petition at page 83 (W.P.No.11378 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 senior counsel 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 senior counsel, the writ petitions may be dismissed by directing the 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 appeal under Section 10 of the Act of 1905 before the first respondent/District Collector, exercising jurisdiction under Article 226 of the Constitution of India,



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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 appeal 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.11267, 11269, 11273, 11274, 11351, 11352, 11353, 11354, 11355 and 11356 of 2023 are closed.

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

Index : Yes/No
Neutral Citation : Yes/No
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To:

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