



W.P.No.11968 of 2023
and W.M.P.No.19318 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.08.2023

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESAVALU

W.P.No.11968 of 2023
and W.M.P.No.19318 of 2023

W.P.No.11968 of 2023:

- 1.R.A.V. Kovil Annayya Charities,
rep. by its Managing Trustee C.Narasimha Swamy,
No.8/7, Sivaji Street,
T.Nagar, Chennai-600 017.
- 2.Selvem Stores,
rep. by its Proprietor S.Arasu Kumar,
637, Trunk Road, Poonamallee,
Tiruvallur-600 056.
- 3.S.R.Cell City,
rep. by its Proprietor Saravana Rajan,
630, Trunk Road, Poonamallee,
Tiruvallur-600 056.
- 4.Jai Cell World,
rep. by its Proprietor Mahaveer Kumar Jain,
631, Trunk Road, Poonamallee,
Tiruvallur-600 056.



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- 5.Kaleem Jewelers,
rep. by its Proprietor Hayath Basha,
633, Trunk Road, Poonamallee,
Tiruvallur-600 056.
- 6.S.M.Jewelry,
rep. by its Proprietor Hayath Basha,
634, Trunk Road, Poonamallee,
Tiruvallur-600 056.
- 7.Sri Selvaganapathy Store,
rep. by its Proprietor T.Thangadurai,
646, Trunk Road, Poonamallee,
Tiruvallur-600 056.

.. Petitioners

Vs

- 1.The District Collector,
Collectorate Office,
Tiruvallur – 602 001.
- 2.The Revenue Inspector,
Taluk Office, Poonamallee,
Tiruvallur – 600 056.
- 3.The Tahsildar,
Taluk Office, Poonamallee,
Tiruvallur – 600 056.

.. Respondents

W.M.P.No.19318 of 2023 in W.P.No.11968 of 2023:

M/s.Chennai Metro Rail Limited,
rep. by the Chief General Manager (Legal),
at "MetroS", No.327, Anna Salai,
Nandanam, Chennai-600 035.

.. Petitioner/
Proposed 4th
Respondent

Vs



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- 1.R.A.V. Kovil Annayya Charities,
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- 5.Kaleem Jewelers,
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Tiruvallur-600 056.
- 6.S.M.Jewelry,
rep. by its Proprietor Hayath Basha,
634, Trunk Road, Poonamallee,
Tiruvallur-600 056.
- 7.Sri Selvaganapathy Store,
rep. by its Proprietor T.Thangadurai,
646, Trunk Road, Poonamallee,
Tiruvallur-600 056.
- 8.The District Collector,
Collectorate Office,
Tiruvallur – 602 001.



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9.The Revenue Inspector,
Taluk Office, Poonamallee,
Tiruvallur – 600 056.

10.The Tahsildar,
Taluk Office, Poonamallee,
Tiruvallur – 600 056.

.. Respondents/
Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus calling for the records on the file of the second respondent in proceedings 'NIL' dated 15.03.2023 pertaining to S.No.1382/2, Pasali 1432, Poonamallee Village, Tiruvallur District and quash the same as illegal, incompetent and without jurisdiction and further forbearing the respondents from interfering with the possession of the first petitioner with respect the property in S.No.1382/2, Pasali 1432, Poonamallee Village, Tiruvallur District.

W.M.P.No.19318 of 2023 filed to implead the petitioner as a party respondent in W.P.No.11968 of 2023.

For the Petitioners : Mr.V.Raghavachari
in W.P.No.11968/2023 Senior Counsel
for M/s.V.Srimathi

For the Respondents : Mr.P.Muthukumar
in W.P.No.11968/2023 State Government Pleader

For the Petitioner : Mr.P.S.Raman
in WMP.No.19318/2023 Senior Counsel
for Mrs.Rita Chandrasekar



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ORDER

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

Heard Mr.V.Raghavachari, learned Senior Counsel appearing for the writ petitioners; Mr.P.Muthukumar, learned State Government Pleader for the respondents and also Mr.P.S.Raman, learned Senior Counsel for the impleading petitioner/Chennai Metro Rail Limited (CMRL) in W.M.P.No.19318 of 2023.

2. The writ petitioners are challenging the notices issued under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 (for short, "*the Land Encroachment Act*").

3. Learned Senior Counsel for the petitioners submits that the respondent authorities could not have invoked the provisions of the Land Encroachment Act, in view of the fact that the land in question is a grama natham land and it absolutely belongs to the first petitioner Trust. The first petitioner Trust leased the said land to petitioner Nos.2 to 7. In case of grama natham land, the provisions of the Land Encroachment Act cannot be invoked. According to



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learned Senior Counsel, the issue is no longer *res integra* and is covered by various judgments of the Division Bench of this Court. Reference is made to the judgment dated 14.03.2023 in W.P.No.31688 of 2022 (*A.Sacratice and others v. The District Collector, Thiruvallur District and others*).

4. The petitioners are only issued with notices under Section 7 of the Land Encroachment Act. The contention of the Government is otherwise. The petitioners have every opportunity to file reply to the notices issued under Section 7 of the Land Encroachment Act and raise all possible defences available to them. Naturally, the defences raised by the petitioners are required to be considered by the authority before proceeding under Section 6 of the Land Encroachment Act.

5. It is submitted by learned Senior Counsel appearing for the intervenor/CMRL that the intervenor is ready to pay compensation to the first petitioner for the superstructure, as the same is required



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for CMRL. However, learned Senior Counsel submits that as far as the land is concerned, it belongs to the State Government. As such, the compensation for land is not payable to the first petitioner.

6. We are not required to consider the said aspect.

7. Learned Senior Counsel for the petitioners submits that the property is not of the Government. Learned Senior Counsel submits that the moment order under Section 6 of the Land Encroachment Act is passed, in the facts of the present case as the intervenor is also pressing hard, no opportunity would be given to the petitioners.

8. As observed above, the impugned notices are only show cause notices soliciting explanation from the petitioners. The petitioners may give explanation. The respondent authorities shall consider the objection raised by the petitioners, including the



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objection of the jurisdiction and the authority to invoke the provisions of the Land Encroachment Act, and shall take decision on its own merits. The petitioners shall file their reply to the notices under Section 7 of the Land Encroachment Act within ten days from today.

9. Considering the peculiar facts of the case and the issue involved, we direct that in case some order adverse to the interest of the petitioners is passed under Section 6 of the Land Encroachment Act, the same may not be implemented for a period of ten days from the date of service of the order under Section 6 of the Land Encroachment Act.

10. With these observations, the writ petition and W.M.P.No.19318 of 2023 are disposed of. There will be no order as to costs. Consequently, W.M.P.Nos.11835 and 11836 of 2023 are closed.



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W.M.P.No.11832 of 2023 filed to permit the petitioners to file a single writ petition is allowed and disposed of, inasmuch as the petitioners have paid separate court fee.

(S.V.G., C.J.)

(P.D.A., J.)

02.08.2023

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

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Collectorate Office,
Tiruvallur – 602 001.
- 2.The Revenue Inspector,
Taluk Office, Poonamallee,
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- 3.The Tahsildar,
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