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W.P.Nos. 19624 to 19628 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2023

CORAM

THE HON'BLE MR.JUSTICE S. VAIDYANATHAN

AND

THE HON'BLE MR. JUSTICE K. RAJASEKAR

W.P. Nos. 19624 to 19628 of 2018

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W.M.P. Nos., 23064, 23065, 23066, 23067 & 23068 of 2018

Ramani	..Petitioner in W.P. No. 19624 of 2018
Citrarasu	..Petitioner in W.P. No. 19625 of 2018
Kathamuthu	..Petitioner in W.P. No. 19626 of 2018
Umamaheswari	..Petitioner in W.P. No. 19627 of 2018
Saraswathi	..Petitioner in W.P. No. 19628 of 2018

Vs.

1. The District Collector,
Villupuram District,
Villupuram.
2. The Assistant Engineer,
Public Works Department,
(Irrigation Division),



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Villupuram.

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3. The Tahsildar,
Villupuram Taluk,
Villupuram District.

..Respondents

Prayer: Petitions under Article 226 of the Constitution of India praying for issue of a Writ of Certiorari to call for the records pertaining to the eviction notice dated 07.07.2018 issued and affixed by the 2nd respondent in the respective petitioner's premises at Door No. 22/124, 19, 135/20, 137/18 & 124 , Rajiv Gandhi Nagar, R.R. Road, Villupuram and quash the same as illegal, ultravires and unconstitutional and against the principle of natural justice.

For Petitioners :: Mr.D. Rajagopal

For Respondents :: Mr.A. Selvendran,
Special Govt. Pleader
COMMON ORDER

(Made by S. Vaidyanathan,J.)

The writ petitions have been filed by the petitioners challenging the eviction notice issued by the 2nd respondent dated 07.07.2018.

2. The petitioners in W.P. Nos. 19624 & 19626 to 19628 of 2018 are owners of immovable properties of various extents in Rajiv Gandhi Nagar Layout, comprised in Survey No. 209/3 while the petitioner in W.P.



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No. 19625 of 2018 is the owner of immovable property in the said Layout comprised in Survey No. 208, V. Marudur Village, Villupuram District.

According to the petitioners, they have been in possession and enjoyment of the respective properties for more than 40 years, having acquired the same through registered sale deeds executed by one Sundara Achari. According to the petitioners, they have been assessed to property tax and they have also obtained electricity connection in their name. That being so, the 2nd respondent, had on 07.07.2018, affixed notices in the property of the respective petitioners under Rule 6(1) of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Rules, 2007, calling upon the respective petitioners to vacate their premises within 21 days on the ground that they have encroached upon water body belonging to Public Works Department and in the event of failure, encroachment would be removed at the cost of the petitioners. The grievance of the petitioners is that the survey numbers mentioned in the eviction notice are 299/3A, 3B, 4 & 5 whereas the survey numbers pertaining to the properties of petitioners are Survey Nos. 208 and 209/3 and without verifying the revenue records, the eviction notices have been affixed. Though the petitioners requested the respondents to enquire into the matter and withdraw the eviction notices, there was no response. Hence, the present writ petitions for the relief



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aforesaid.

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3. Mr.D. Rajagopal, learned counsel for the petitioners would submit that the petitioners are residing in Rajiv Gandhi Nagar Layout and that the survey numbers pertaining to the petitioners' properties are Survey Nos. 208 & 209/3, V. Marudur Village, Villupuram Taluk and District. According to the learned counsel, the petitioners are not encroachers and the eviction notices have been erroneously issued to them. Moreover, the survey numbers mentioned in the impugned notice are different compared to the survey numbers in which the petitioners's properties are situated.

4. Mr.A. Selvendran, learned Special Government Pleader for the respondents would submit that the respondents will conduct a survey and in case, any encroachment is found to exist in Survey Nos. 299/3A, 3B, 4 & 5, as stated in the impugned order, action will be taken and the encroachment will be cleared.

5. The submission made by the learned Special Government is hereby recorded. It is also made clear that no indulgence shall be shown to encroachers. If the respondents fail to take action for removal of encroachment and the encroachment is not removed within a period of 3



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months from the date of receipt of a copy of this order, then the officer concerned should be taken to task by proceeding against him departmentally for dereliction of duty, dishonesty and lack of devotion to duty.

6. The Government has contemplated constitution of various committees at Taluk/Divisional/District/State Level to protect the Government lands from encroachments and to comply with the orders of Hon'ble Courts for monitoring the action taken for eviction of encroachments in Government lands with priority given to water bodies vide G.O.(Ms)No. 64 Revenue and Disaster Management Department, Land Disposal Wing, 'LD.6(2)'Section dated 08.02.2022. The Committees constituted for the said purpose are expected to act and take steps to ensure that water bodies are protected. It is open to the authorities to verify whether the petitioners' properties are encroaching upon the water body and if so, after issuing notice containing the correct survey number, action can be taken against the encroachers. If the encroachers refuse to co-operate for the enquiry, recording their absence, an ex parte decision can be taken.

7. The writ petitions are disposed of accordingly. No costs.

Connected W.M.P. s are closed.



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(S.V.N.J.) (K.R.S.J.)

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