



WEB COPY



WP No. 15038 to 15046 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2023

CORAM :

THE HONOURABLE MR. JUSTICE R. MAHADEVAN
and
THE HONOURABLE MS. JUSTICE P.T. ASHA

Writ Petition Nos. 15038 to 15046 of 2017
and
W.M.P. Nos. 16279 to 16287 of 2017

C. Velu alias Velusamy	.. Petitioner in W.P. No. 15038
P. Nehru	.. Petitioner in W.P. No. 15039
T. Palaniammal	.. Petitioner in W.P. No. 15040
P. Lakshmi	.. Petitioner in W.P. No. 15041
S. Kandayee	.. Petitioner in W.P. No. 15042
A. Chinrasu	.. Petitioner in W.P. No. 15043
K. Kamala	.. Petitioner in W.P. No. 15044
Mrs. Mariammal	.. Petitioner in W.P. No. 15045
Mrs. Kolanthiammal	.. Petitioner in W.P. No. 15046

Versus

1. The Tahsildar
Edappadi Taluk
Edappadi
Salem District

2. The Revenue Inspector
Konganapuram
Edappadi Taluk
Salem District.

.. Respondents in all Writ Petitions



WP No. 15038 to 15046 of 2017

Writ Petitions filed under Article 226 of the Constitution of India praying for a Writ of Certiorari, calling for the records of the 1st respondent in issuing the notices vide proceedings Nil dated 05.06.2017 under Section 6 of Tamil Nadu Land Encroachment Act, 1905 (Act III of 1905) directing the petitioners to vacate from the lands in Survey Nos. 457/17, 457/24, 457/8, 457/3, 457/19, 457/3, 457/3, 457/15 & 457/22 measuring an extent of 0.0120.0 sq.mtrs., 0.0036.0 sq.mtrs., 0.0049.0 sq.mtrs., 0.0040.0 sq.mtrs., 0.0056.0 sq.mtrs., 0.0012.0 sq.mtrs., 0.0020.0 sq.mtrs., 0.0080.0 sq.mtrs., and 0.0036.0 sq.mtrs., respectively situated at Koranampatti Village, Edappadi Taluk, Salem District and quash the same as illegal and without jurisdiction.

For Petitioners : Mr. G. Nagarajan
in all the Writ Petitions

For Respondents : Mr. A. Selvendran
Special Government Pleader for R1 & R2
in all the Writ Petitions

COMMON ORDER

[Order of the Court was made by R.MAHADEVAN,J,]

These writ petitions have been filed by the petitioners, challenging the notices dated 05.06.2017 issued by the first respondent, under Section 6 of The Tamil Nadu Land Encroachments Act, 1905.

2. It is stated in the affidavits filed in support of the respective writ petitions that the petitioners are residing in the lands comprised in Survey Nos. 457/17, 457/24, 457/8, 457/3, 457/19, 457/3, 457/3, 457/15 & 457/22 situated at Koranampatti Village, Edappadi Taluk, Salem District. It is further stated that the petitioners are in occupation of the aforesaid lands for a long time



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where they have put up superstructure. It is also stated that the petitioners have also obtained electricity service connections, family cards, voters identity cards in their name in respect of the respective lands. While so, the second respondent issued notices dated 12.05.2017 under Section 7 of The Land Encroachment Act, 1905 intimating that the petitioners have encroached upon the lands classified as Government Poromboke and called upon them to submit their explanations as to why they should not be evicted from the lands in their occupation. According to the petitioners, the lands, which are in their occupation, are classified as "*Gramanatham*" while so, the respondents have no jurisdiction to invoke the provisions contained under the said Act by branding them as encroachers. When the petitioners are in the process of preparation of a reply to be submitted to the second respondent to the notices dated 12.05.2017, the first respondent had issued the consequential notices dated 05.06.2017 under Section 6 of the Act calling upon them to vacate and handover the vacant possession of the lands in their occupation. Aggrieved by the same, the petitioners are before this Court with these writ petitions.

3. The learned counsel for the petitioners would vehemently contend that the first respondent has no jurisdiction to issue the impugned notices dated 05.06.2017 inasmuch as the lands in question have been classified as "Grama



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Natham". When once a land is classified as *Gramanatham*, then such land is fit for human dwelling. In such circumstances, the first respondent has no jurisdiction to treat the petitioners as encroachers to issue the notice under Section 6 of the Act. In this context, the learned counsel for the petitioners placed reliance on the decision of this Court in the case of **A.K. Thillaivanam and other vs. District Collector, Chengai Anna District and others** reported in **1998 (3) Law Weekly 603** wherein it has been held that the Land Encroachment Act or the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act cannot be invoked in respect of lands classified as *Gramanatham* which is in occupation by general public. The learned counsel also relied on the Division Bench decision of this Court in the case of **The Executive Officer, Kadathur Town Panchayat, Harur Taluk, Dharmapuri District vs. V. Swaminathan and others** reported in **2004 (3) CTC 270** wherein it has been held that when once a land is classified as *Gramanatham* then it cannot be construed as the one vested with the Government. By placing reliance on the aforesaid decisions, the learned counsel for the petitioners submit that the impugned notices dated 05.06.2017 issued by the first respondent are legally not sustainable and therefore, they have to be quashed. Accordingly, the learned counsel prayed for allowing these writ petitions.

4. On the contrary, the learned Special Government Pleader



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appearing for the first respondent submitted that as against the notices dated 05.06.2017, which are impugned in these writ petitions, the petitioners have an alternative remedy by way of filing appeals under Section 10-A of The Tamil Nadu Land Encroachment Act, before the District Collector. The petitioners, without exhausting such appeal remedy, have preferred these writ petitions under Article 226 of The Constitution of India and they are not maintainable.

5. The learned counsel for the petitioners fairly conceded the said submission of the learned Special Government Pleader appearing for the respondents and sought time for filing Appeals.

6. In view of the above submission of the counsel for the petitioners, these Writ Petitions are disposed of granting four weeks time to the petitioners to file Appeals under Section 10 of the said Act before the Appellate authority and on receipt of such appeals, the Appellate Authority/District Collector shall consider the same, afford opportunity of hearing to the petitioners and pass orders or merits and in accordance with law, within a period of six weeks thereafter.

7. With the above direction, all the writ petitions are disposed of. No



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costs. Consequently, all the connected Miscellaneous Petitions are closed.

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(R.M.D., J) (P.T.A., J)

06.02.2023

(2/4)

ay/rsh

Index:Yes / No

Speaking Order / Non-speaking Order

Neutral Citation: Yes / No

Copy to:

1. The Tahsildar
Edappadi Taluk
Edappadi
Salem District
2. The Revenue Inspector
Konganapuram
Edappadi Taluk
Salem District



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R. MAHADEVAN, J
and
P.T. ASHA, J

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