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W.P.(MD) NoS.16675 & 16923 of 2012

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.10.2023

CORAM:

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN**

W.P.(MD) No.16675 of 2012

and

M.P.(MD) No.2 of 2012

and

W.P.(MD) No.16923 of 2012

and

M.P.(MD) No.3 of 2012

W.P.(MD) No.16675 of 2012:

- 1.Kalaiarasi
- 2.Ponnammal
- 3.Karnan
- 4.Kumar
- 5.Pushpam
- 6.Suseela
- 7.Mariammal
- 8.Jansi Rani



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9.Palraj

10.Arul Selvaraj

11.Valliyammal

12.Daniel

13.Sakkammal

... Petitioners

-vs-

1.The District Collector
Thoothukudi District
Thoothukudi

2.The Tahsildar
Thoothukudi District

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari calling for the records relating to the proceedings of the order in No.D4/49221/12, dated 13.12.2012, on the file of the first respondent and quash the same

For Petitioner : Mr.G.Prabhu Rajadurai

For Respondents : Mr.S.P.Maharajan
Special Government Pleader



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W.P.(MD) No.16923 of 2012:

1.Manosai

2.Daniel

3.Dharmar

... Petitioners

-vs-

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2.The Tahsildar
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... Respondents

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For Petitioner : Mr.G.Prabhu Rajadurai

For Respondents : Mr.S.P.Maharajan
Special Government Pleader



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COMMON ORDER

[Order of the Court was made by S.M.SUBRAMANIAM, J.]

The order of the District Collector, Thoothukudi District, dated 13.12.2012, dismissing the appeals preferred by the petitioners against the notices issued by the Tahsildar, Thoothukudi, under Section 6 of the Tamil Nadu Land Encroachment Act, 1905, is under challenge in the present writ petitions.

2. The District Collector being the Appellate Authority has independently considered the facts and circumstances and found that the petitioners are encroachers and the encroached portions are needed for the purpose of expansion of road.

3. Learned counsel for the petitioners mainly contended that the petitioners are residing in the subject lands for several decades and more so, they are landless poor persons. Further, the subject lands are classified as “Government Poramboke G.R.Natham (Municipal Community Channel)” in the revenue records and therefore, the impugned order is perverse.



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4. Learned counsel for the petitioners, relying on the said classification, made a submission that the Government cannot claim any right over the subject properties.

5. Even in respect of Grama Natham / Government Poramboke / Municipal Channel or Land is concerned, if such lands are required for public purposes, the same would prevail and thus, the claim of the petitioners was rightly rejected by the District Collector.

6. Learned Special Government Pleader appearing for the respondents produced a copy of the letter of the Tahsildar, Thoothukudi, dated 30.10.2023, stating that the petitioners had already submitted applications before the Tamil Nadu Urban Habitat Development Board seeking alternate accommodation and the same was also provided to the petitioners, however, they refused to shift their residence.

7. In view of the fact that the respondents have already provided alternate accommodation to the petitioners, they are at liberty to shift their residence to the alternate accommodation provided by the Tamil Nadu Urban



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Habitat Development Board. As far as the impugned order passed by the District Collector is concerned, the subject lands are needed for the purpose of road expansion and the said public interest, at no circumstances, be compromised, since public interest will prevail over the private interest. Thus, the respondents are directed to evict the encroachers from the subject lands and the encroachers are at liberty to occupy the alternate accommodation, if already provided, or otherwise, they are at liberty to submit fresh applications for providing alternate accommodation under any of the Government Welfare Schemes.

8. With the above observations, the writ petitions are dismissed.

No costs. Consequently, connected miscellaneous petitions are closed.

[S.M.S., J.]

[V.L.N., J.]

30.10.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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To:

- 1.The District Collector,
Thoothukudi District,
Thoothukudi.
- 2.The Tahsildar,
Thoothukudi District.



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and
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