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W.P.(MD)Nos. 17856 of 2023 etc.

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.(MD)Nos.17856, 18380 & 18381 of 2023

and

W.M.P.(MD)Nos.14936, 15257, 15258, 20361, 20338 & 20526 of 2023

Alagu	... Petitioner in W.P.(MD)No.17856 of 2023
R.Sumathi	... Petitioner in W.P.(MD)No.18380 of 2023
M.Mari	... Petitioner in W.P.(MD)No.18381 of 2023

Vs.

- 1.The District Collector,
Sivagangai, Sivagangai District.
- 2.The Revenue Divisional Officer,
Devakottai, Sivagangai District.
- 3.The Tahsildar,
Devakottai, Sivagangai District.
- 4.The Commissioner,
Devakottai Municipality,
Devakottai, Sivagangai District.
- 5.The Zonal Deputy Tahsildar,
Devakottai, Sivagangai District.

...Respondents
in W.P.(MD)No.17856 of 2023



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1. The District Collector,
Sivagangai, Sivagangai District.
2. The Tahsildar,
Devakottai Taluk, Sivagangai District.
3. Devakottai Municipality,
through its Commissioner,
Sivagangai District.
4. The Headquarters Deputy Tahsildar,
Devakottai Taluk, Sivagangai District.

5. Ramakrishnan

... Respondents
in W.P.(MD)Nos.18380 & 18381 of 2023

PRAYER in W.P.(MD)No.17856 of 2023: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned eviction notice of the 5th respondent dated 21.06.2023 and impugned eviction order of the 3rd respondent dated 18.07.2023 directing to vacate the dwelling house within a day, quash the same as illegal and consequently, direct the respondents herein to issue natham patta to the petitioner's house property in his occupation measuring about 7 cents in Town Survey No.15, situated in Ward-K, Block 17, Udayachi Group, bearing Door No.22, Kailasanathapuram West, Kalyanasundaram Nagar, Devakottai, Sivagangai District as per proceedings of the 1st respondent in Na.Ka.E4/26180/12, dated 11.10.2012, the 3rd respondent in Na.Ka.A1/4843/2012, dated 22.07.2013, 4th respondent in Na.Ka.No.3213/2015F1, dated 18.03.2015 and recent proceedings of the 2nd respondent in O.Mu.A3/5362/2023, dated 10.07.2023.



W.P.(MD)Nos. 17856 of 2023 etc.

PRAYER in W.P.(MD)Nos.18380 & 18381 of 2023: Petitions filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned eviction notice passed by the 2nd respondent dated 18.07.2023 and quash the same and consequently, direct the respondents 1 and 2 to issue patta to the petitioners in continuation of the proceedings of the 1st respondent in Na.Ka.No.E4/26180/12, dated 11.10.2012, and proceedings of the 2nd respondent in Na.Ka.A1/4843/2012, dated 22.07.2013, 3rd respondent in Na.Ka.No.3213/2015F1, dated 18.03.2015 in respect of house property of the petitioners to an extent of about 3.77 cents and 4 cents respectively in Town Survey No.15, Block No.17, Ward-K of Udayachi Group Village, Devakottai Town as granted by the 1st respondent in Na.Ka.No.E4-2208/08, dated 13.03.2008.

For Petitioner : Mr.C.Kishore

For Mr.B.Muruganandam

For RR1 to R3&R5 : Mr.T.Amjadkhan, Government Advocate

For R4 : Mr.K.R.Bharathi Kannan

(in W.P.(MD)No.17856 of 2023)

For Petitioner : Mr.B.Babu

For RR1, 2 & 4 : Mr.T.Amjadkhan, Government Advocate

For R3 : Mr.K.R.Bharathi Kannan

For R5 : Mr.R.J.Karthick

(in W.P.(MD)Nos.18380 & 18381 of 2023)



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COMMON ORDER

(Order of the Court was made by ***S.M.SUBRAMANIAM, J.***)

The order passed under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 (hereinafter referred to as 'the Act') is sought to be quashed in the present Writ Petitions.

2.The official respondents during inspection found that the Government lands classified as 'Government Poramboke Vandipathai' have been encroached upon by few private individuals. Consequentially, notice under Section 7 of the Act was issued to the writ petitioner on 21.06.2023 by the competent authority. An opportunity was afforded to the writ petitioners and they have also submitted their objections to proceed further. Considering the objections, the authority competent issued final orders under Section 6 of the Act. Thus, the petitioners are constrained to move the present Writ Petitions.

3.The learned counsel for the petitioners mainly contended that the petitioners have submitted applications to grant patta in respect of the lands, which they are in occupation for long years. The Tahsildar has recommended the case of



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the writ petitioners to the Commissioner of Devakottai Municipality for issuing no objection, which is pending. Therefore, the impugned orders are to be set aside.

4.The learned Government Advocate appearing on behalf of the official respondents raised an objection by stating that the subject land has been classified as 'Government Poramboke Vandipathai' and therefore, encroachments are to be removed and public pathway is to be made available for the usage of the public at large. Patta cannot be granted in favour of the petitioners in view of ban imposed by the Government for grant of patta in respect of the lands classified as 'Government Poramboke Vandipathai'. Thus, the applications if at all submitted cannot be considered in view of the ban imposed by the Government.

5.He further submitted that already three encroachers were evicted out of six and in view of the pendency of the Writ Petitions, the official respondents are unable to evict other three encroachers.

6.The encroachment in public pathway is impermissible. If at all the encroachers are homeless poor people and eligible to avail the Government Welfare Scheme, they have to submit an application to the District Collector



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concerned, who in turn, shall consider the same strictly in accordance with the terms and conditions stipulated in the Government Welfare Schemes and by ascertaining the eligibility to avail the benefit of free house site patta or otherwise. Patta for homeless poor persons are to be granted in accordance with the procedures contemplated under the scheme. However, in the present case, the petitioners are the encroachers of the public pathway. Therefore, we are not inclined to consider the Writ Petitions. Consequentially, these Writ Petitions stand dismissed. The official respondents are directed to remove the encroachments and make the public pathway free from encroachments for the usage of the public at large. No costs. Consequently, connected miscellaneous petitions are closed.

(S.M.S., J.) & (V.L.N., J.)

09.10.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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