



W.P.(MD)No.21976 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.09.2023

CORAM:

THE HONOURABLE **MR.JUSTICE S.S.SUNDAR**
and
THE HONOURABLE **MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

W.P(MD)No.21976 of 2023
and
W.M.P(MD)No.18318 of 2023

1.Marimuthu
2.Porammal

... Petitioners

Vs.

1.The District Collector,
Dindigul District,
Dindigul.

2.The Revenue Divisional Officer,
Palani Revenue,
Palani,
Dindigul District.

3.The Thasildar,
Gujiliamparai Taluk,
Dindigul District.

4.Senthilvadivu

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the third respondent in Na.Ka.No.309/2023/A2 dated 29.08.2023 and quash the same as illegal and directing the first and second respondents to conduct proper enquiry before conducting the eviction process by the third respondent in the land situated at S.No.1280 in Nagayakottai Village,



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Gujiliamparai Taluk, Dindigul District based on the petitioners' representation, dated 02.09.2023.

For Petitioners :Mr.S.Sarvagan Prabhu
For R1 to R3 :Mr.D.Sachikumar,
Additional Government Pleader

ORDER

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

Heard Mr.S.Sarvagan Prabhu, learned counsel for the petitioners and Mr.D.Sachikumar, learned Additional Government Pleader for respondents 1 to 3.

2. This writ petition is filed for issuance of a Writ of Certiorarified Mandamus to quash the impugned order passed by the third respondent, dated 29.08.2023 and to direct respondents 1 and 2, to conduct proper enquiry before carrying out the eviction process.

3. The petitioners challenged the notice issued under Section 6 of the Tamil Nadu Land Encroachment Act, 1905(in short 'the Act'). From the reading of the notice, it is seen that the impugned order is preceded by the show cause notice under Section 7 of the Act.



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However, it is stated that no proper enquiry was conducted by the respondents.

4. However, it is now reported before this Court that the encroachment made by the petitioners by putting up construction of two shops in a public land is removed. In the entire affidavit filed in support of this petition, the petitioners have not pleaded any right on the basis of revenue records or documents. The petitioners state that they are in occupation of public land for more than ten years. Therefore, their right as such should be considered.

5. The learned counsel for the petitioners repeatedly states that the respondents have not taken action against several others, who have encroached the public land in the same survey field.

6. On the admitted fact, the petitioners have no right as against the State. Hence, the proceedings initiated under the Act cannot be faulted. The petitioners have no valid defence during the enquiry conducted. The question of conducting survey before initiating action need not be faulted in the case where admittedly the petitioners are in encroachment of a public land.



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7. This Court finds no merits in this writ petition. Therefore, this writ petition is dismissed for devoid of merits. No Costs. Consequently, connected miscellaneous petition is closed. However, if there are other encroachers as alleged by the learned counsel for the petitioner, the official respondents are directed to take action after following the procedure in accordance with law.

[S.S.S.R., J.] [D.B.C., J.]
11.09.2023

Index : Yes / No
NCC : Yes/No

pm

To

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Dindigul.
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