



W.P.(MD)No.24439 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.(MD)No.24439 of 2023

and

W.M.P.(MD)Nos.20632 & 20633 of 2023

- 1.Mariyammal
- 2.Karbagam
- 3.Gandhimathi
- 4.Bakkiyalakshmi

... Petitioners

Vs.

- 1.The Government of Tamil Nadu,
Rep. by Additional Chief Secretary,
Commissioner of Revenue Administration (CRA)
& Disaster Management, Ezhilagam,
Chepauk, Chennai-5.
- 2.The Commissioner of Land Administration (CLA),
Ezilagam, Chapuak, Chennai-5.
- 3.The District Collector,
Ramanathapuram District,
Ramanathapuram.
- 4.The District Revenue Officer,
Ramanathapuram District, Ramanathapuram.



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5.The Revenue Divisional Officer,
Ramanathapuram District, Ramanathapuram.

6.The Tahsildar,
Kadaladi Taluk, Kadaladi,
Ramanathapuram District.

7.The Executive Officer,
Sayalgudi Town Panchayat,
Sayalgudi, Kadaladi Taluk,
Ramanathapuram District.

8.R.Muniyansamy

...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 impugned order passed by the 6th respondent dated 01.08.2023 vide Na.Ka.B3/617/2018 and quash the same.

For Petitioners : Mrs.N.Krishnaveni, Senior Counsel

For Mr.P.Thiyagarajan

For R1 to R6 : Mr.N.Satheesh Kumar,

Additional Government Pleader

ORDER

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

The order passed by the Revenue Tahsildar, Kadaladi Taluk, in proceedings dated 01.08.2023, is under challenge in the present Writ Petition.



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2.The petitioners state that the subject property at Survey No.185/4, Sayalgudi Village, Kadaladi Taluk, Ramanathapuram District, absolutely belongs to the family of the writ petitioner.

3.The learned Senior Counsel appearing on behalf of the petitioners mainly contended that a civil suit was instituted by one M.Krishnan, father of the writ petitioners in O.S.No.19 of 2004 on the file of the Sub Court, Paramakudi, wherein one Murugan and his wife Lakshmiammal made as defendants. S.A.(MD)No.777 of 2010 was decided in favour of the family of the writ petitioners and title was declared. However, the Government is not a party to the civil proceedings and now, the impugned notice has been issued by the Revenue Tahsildar, holding that the subject land has been classified as Government Porampoke 'Temple'. Thus, the judgment of the Civil Court is of no avail to the petitioners and if at all any document, it is to be established before the competent authority in the manner known to law.

4.The Revenue Tahsildar has decided the issues under the Tamil Nadu Land Encroachment Act, 1905 (hereinafter referred to as 'the Act') and Section 10



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of the Act contemplates an appeal to be preferred before the District Collector concerned. Under Section 10 of the Act, any person is entitled to prefer an appeal and in the present case, no notice was issued to the petitioners. Even then the petitioners are at liberty to prefer an appeal by raising all the factual and legal grounds.

5.The disputed facts of civil nature cannot be adjudicated in a Writ proceedings under Article 226 of Constitution of India. The power of judicial review cannot be expanded for the purpose of determining the title, ownership or other claims of civil nature. In the present case, the revenue authorities have initiated action to evict the encroachers by invoking the provisions of the Act on the ground that the subject property is classified as Government Porampoke Temple. Thus, we are of the opinion that the petitioners have to prefer an appeal before the District Collector concerned for effective adjudication of the issues on merits. On receipt of any such appeal, the District Collector concerned shall decide the same on merits and thereafter, proceed against the encroachers in the manner known to law.



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6.With these observations, this Writ Petition stands dismissed. No costs.

Consequently, connected miscellaneous petitions are closed.

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

13.10.2023

(2/2)

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

Yuva

To

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Government of Tamil Nadu,
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& Disaster Management, Ezhilagam,
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- 2.The Commissioner of Land Administration (CLA),
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