



W.P.Nos.3429 of 2018 & 22815 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2024

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CORAM :
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE K.RAJASEKAR

W.P.Nos.3429 of 2018 & 22815 of 2021
and
W.M.P.Nos.4197 of 2018 & 24040 of 2021

W.P.No.3429 of 2018

C.Palaniyappan

... Petitioner

Vs.

1.The Villupuram Municipality,
Represented by the Commissioner,
Villupuram,
Villupuram District.

2.V.Arumugam

... Respondents

W.P.No.3429 of 2018

C.Palaniyappan

... Petitioner

Vs.

1.The District Collector,
Villupuram District,
Villupuram.



W.P.Nos.3429 of 2018 & 22815 of 2021

2.The Tahsildar,
Villupuram Taluk,
Villupuram District.

3.The Villupuram Municipality,
Represented by the Commissioner,
Villupuram,
Villupuram District.

4.V.Arumugam ... Respondents

Prayer in W.P.No.3429 of 2018: Writ Petition is filed under Article 226 of the Constitution of India in the nature of Writ of Certiorari, calling for the records of the 1st respondent in connection with its order in Na.Ka.No.3520/2017/F1 dated 25.01.2018 and quash the same.

Prayer in W.P.No.22815 of 2021: Writ Petition is filed under Article 226 of the Constitution of India in the nature of Writ of Certiorari, calling for the records of the 3rd respondent in connection with the notice in Na.Ka.No.3520/2017/F1 dated 30.09.2021 and quash the same.

In W.P.No.3429 of 2018

For Petitioner	: Mr.R.Srinivas, Senior Counsel for Mrs.Mythili Srinivas
For R1	: Mr.P.Srinivas
For R2	: No appearance



W.P.Nos.3429 of 2018 & 22815 of 2021

In W.P.No.22815 of 2021

For Petitioner : Mr.R.Srinivas,
Senior Counsel for
Mrs.Mythili Srinivas

For R1 & R2 : Mr.A.Selvendran
Special Government Pleader

For R3 : Mr.P.Srinivas

For R4 : Mr.R.Sankara Subbu

COMMON ORDER

(Order of this Court delivered by S.M.SUBRAMANIAM,J.)

The Writ Petitions on hand are classic cases where the petitioner/ C.Palaniyappan could file number of writ petitions challenging the notice issued under Section 182 of the Tamil Nadu District Municipalities Act. Multiple writ proceedings were instituted to prolong the eviction, which seems to be apparent.

2. The writ petitions came to be instituted mainly stating that the principles of natural justice have not been followed and no survey has been conducted by the Competent Authorities. Thirdly, the identity of subject land



W.P.Nos.3429 of 2018 & 22815 of 2021

is not made available. Fourthly, the National Highways Authorities and other Departments are claiming right from the portion of the property, more specifically in Survey No.175. As we could see from the “A”-Register, the land to an extent of 1.22.0 hectares is classified as Government Poromboke. The usage of the property has been stated as “Local Fund Road”.

3. Learned Senior Counsel for the petitioner, Mr.R.Srinivas, would contend that notice was initially issued without providing opportunity and without mentioning the details regarding the properties. Earlier writ petition filed by Mr.C.Palaniyappan was disposed of by this Court on 27.10.2017 in W.P.No.21619 of 2017 converting the notice dated 02.08.2017 as show cause notice and the petitioner was provided with an opportunity to submit his explanations by enclosing relevant authenticated documents within a period of four (4) weeks and thereafter, the Villupuram Municipality was directed to consider the same and take a decision and pass orders. Again notice was issued and writ petition came to be instituted.



W.P.Nos.3429 of 2018 & 22815 of 2021

4. Learned Senior Counsel for the petitioner would rely upon the letter dated 13.09.2019 by stating that further action was dropped by Villupuram Municipality and subsequently, proceedings dated 30.09.2021 came to be passed.

5. At the outset, learned Senior Counsel would contend that the identity of the property is ambiguous. The petitioners admittedly in occupation of the property for long time and Sale Deeds were executed by forming layouts and therefore, the actions of the Municipality is improper and not in consonance with the provisions of the Act.

6. Mr.P.Srinivas, learned Counsel for the Villupuram Municipality would oppose the said contention by stating that detailed survey was conducted by the Competent Authorities. The entire extent of land in Survey No.175 is classified as “Government Poromboke”. The usage of the Government Poromboke has been mentioned as Local Fund Road. The petitioner is an encroacher and attempting to escape form the clutches of eviction, by repeatedly filling writ proceedings. The petitioner as per the respondents is an encroacher to an extent of 183 Square metres in Survey



W.P.Nos.3429 of 2018 & 22815 of 2021

No.175 classified as Local Fund Road of a total extent of 1.22.00 Hectares.

He has put up a house and two shops without permission, which is unauthorised constructions.

7. Mr.Sankara Subbu, learned Counsel appearing appearing the respondent/ Mr.V.Arumugam would state that a portion of the land has been used for performing rituals for dead persons by the people of that locality. The 4th respondent and their people are residing at Vazhudhareddy colony in Villupuram District. Therefore, the claim of the writ petitioner is not based on any documents and thus, the Writ Petitions are to be rejected.

8. We could able to examine one Sale Deed referred by the petitioner which reveals that it is unregistered and the title was transferred by clearly mentioning that the subject land in Survey No.175 is a Poromboke land. Thus, the petitioner himself is admitting that the subject land is a “Poromboke land” and such unregistered Sale Deeds have no validity in the eye of law.



9. Section 182 of the Tamil Nadu District Municipalities Act, 1920

provides power to the Authorities to remove the encroachments. Sub-Section (1) enumerates that “the Executive Authority may, by notice, require the owner or occupier of any premises to remove or alter any projection, encroachment or obstruction (other than a door, gate, bar or ground-floor window) situated against or in front of such premises and in or over any street.”

10. In the present case, many number of notices were issued to the petitioner and some of the notices were came to be challenged in writ petitions and this Court also afforded opportunity to the petitioner to submit his explanations along with documents, if any. The Authorities found that the documents submitted by the writ petitioner are unregistered documents and therefore, it cannot be relied upon. Thus the writ petitioner has not established any right in respect of the subject property. “A”-Registrar /Revenue Records would reveal that entire extent in Survey No.175 is a “Government Poromboke” land and the subject property in question, in this writ petition is being used as road. Therefore, the Authorities are empowered to invoke Section 182 of the Tamil Nadu District Municipalities Act, 1920



W.P.Nos.3429 of 2018 & 22815 of 2021

for removal of encroachments. The petitioner has prolonged the issue by filing multiple writ petitions.

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11. Therefore, we are not inclined to grant any further time to the writ petitioner to take any undue advantage and use the Government properties, which is to be utilised for public purposes.

12. Thus, we are able arrive an irresistible conclusion that the petitioner has not established even a semblance of legal right for the purpose of granting the relief. Further, the petitioner is in possession of Government Poromboke land, wherein, the usage mentioned is 'Local Fund Road'. Thus, he is not entitled for any relief. More so, the petitioner has converted the Government Poromboke property for commercial usage. Therefore, the respondent/Villupuram Municipality is directed to evict the petitioner within a period of one week from today.



W.P.Nos.3429 of 2018 & 22815 of 2021

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13. Accordingly, the Writ Petitions stand dismissed. No costs.

Consequently, connected miscellaneous petitions are closed.

[S.M.S.J.] [K.R.S.J.]
13.02.2024

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
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To

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Villupuram District.

2.The District Collector,
Villupuram District,
Villupuram.

3.The Tahsildar,
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AND
K.RAJASEKAR,J.

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Order in
**W.P.Nos.3429 of 2018
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