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W.P. No. 12609 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2024

CORAM

THE HON'BLE MR.JUSTICE M. SUNDAR

AND

THE HON'BLE MRS.JUSTICE K. GOVINDARAJAN THILAKAVADI

W.P. No. 12609 of 2021

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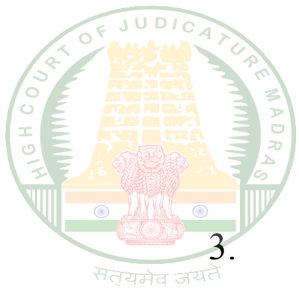
W.M.P. No. 13406 of 2021

S. Arokkiasamy @ R. Swamy

..Petitioner

Vs.

1. The Assistant Survey Officer (North)/
Direct Assistant Officer,
Office of Land Survey and Survey
Officer,
Chepauk, Chennai 600 005.
2. The District Revenue Officer,
O/o. The District Revenue Officer,
Vengikkal Village & Post,
Thiruvannamalai Taluk & District,
PIN – 606 604.



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3. The Revenue Divisional Officer,
O/o. The Revenue Divisional Officer,
Tindivanam Road,
Thiruvannamalai Town & Taluk,
Thiruvannamalai District,
Pin – 606 601.

4. The Tahsildar,
O/o. The Tahsildar,
Chengam Town & Taluk,
Thiruvannamalai District,
PIN – 609 701.

5. Mr.A. Saminathan

..Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Certioraified Mandamus to call for the records of the impugned order in Se.mu.ka. A3/756/2020 dated 30.12.2020 issued by the Revenue Divisional Officer, Thiruvannamalai and District, the 3rd respondent herein and quash the same, subsequently direct the 3rd respondent herein to alter the revenue reords after cancel the temporary patta of Natham Live over case (நத்தம் நிலுவை இனம்) and issue permanent patta in favour of the petitioner herein in respect of the land and house in Survey No. 88/1A and Sub Division No. 118/5 measuring an extent about (0.015 Ares) 1453 ¼ square feet situated at Door No. 324, T.V. Room Street, Beemanandal



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Village, Pachchal Post, Chengam Taluk, Thiruvannamalai District after verifying the record stands in the name of the petitioner and in respect of the same land and house, after demolishing the illegal construction raised by one Late G. Chinnaiyan, S/o Late Gopal, who was residing in Beeamanandal Village, Pachchal Post, Chengam Taluk, Thiruvannamalai District, on the basis of the petitioner's representation dated 03.05.2021.

For Petitioner :: Mr.Dalit Tiger C. Ponnusamy

For Respondents :: Mr.A. Selvendran,
Special Govt. Pleader for R1 to R4

ORDER

(Made by M. SUNDAR,J.)

In the captioned 'Writ Petition'['WP' for the sake of brevity], the nucleus of the matter is land comprised in S.No. 118/5 measuring an extent about (0.015 Ares) 1453 $\frac{1}{4}$ square feet or thereabouts at Door No. 324, T.V. Room Street, Beeamanandal Village, Pachchal Post, Chengam Taluk, Thiruvannamalai District (hereinafter 'said land' for the sake of convenience and clarity).

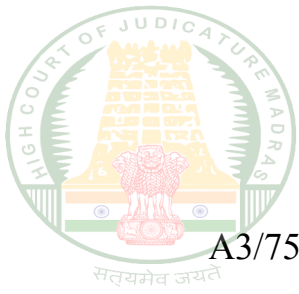


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2. The writ petitioner's case is that he is an Ex-Serviceman, he is in

possession of said land and it has been classified as 'நத்தம் நிலுவை இனம்' in the revenue records. The writ petitioner, after sending representations, came before this Court by filing writ petition being W.P. No. 30534 of 2019 with a complaint that certain encroachments and illegal constructions have been put up in the said land and a Hon'ble Division Bench of this Court disposed of the writ petition in and by an order dated 25.10.2019 directing jurisdictional Revenue Divisional Officer [10th respondent/Revenue Divisional Officer, Thiruvannamalai Town and Taluk, Thiruvannamalai District] to consider the writ petitioner's representation dated 25.09.2019 on its own merits and in accordance with law after putting the petitioner as well as private respondents on notice. The 'jurisdictional Revenue Divisional Officer' ('RDO' for the sake of brevity), who is 3rd respondent before us, was directed to complete the exercise within a time frame of 10 weeks.

3. The jurisdictional RDO, in obedience to this directive, embarked upon the exercise and made the order bearing Reference No.Se.Mu.Ka



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A3/756/2020 dated 30.12.2020, which has been signed by RDO on 30.12.2020. This is the impugned order in the captioned WP.

4. In the hearing today, Mr. Tiger Dalit C. Ponnusamy, learned counsel for writ petitioner submitted that the said land has been encroached upon in a high-handed manner and the impugned order says that the said land should be kept vacant after removing the encroachment. Considering the tussle qua said land, learned counsel submitted that the writ petitioner has been in possession, he was an Ex-Serviceman and he has been visiting the said land at frequent intervals.

5. The submissions made and the contents of the impugned order bring to light that there are several factual aspects which may have to be gone into. Learned counsel for writ petitioner also points out that criminal complaints have been lodged as against certain alleged high-handed actions.

6. Be that as it may, in the captioned WP, we are concerned with the legal tussle qua said land which is subject matter of the impugned order.



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7. As regards official respondents, namely, respondents 1 to 4, they are represented by Mr.A. Selvendran, learned Special Government Pleader. As regards 5th respondent, pursuant to the earlier order of Coordinate Division Bench dated 25.06.2021, 5th respondent has been duly served; name and address of 5th respondent is shown in the cause list; 5th respondent has not chosen to enter appearance through any counsel and there is no representation for the 5th respondent in the hearing today.

8. Be that as it may, learned State Counsel, on instructions, submits that there is a provision for review to Review Committee at District Level for assailing the impugned order. In support of this contention, learned State Counsel has placed before us G.O.Ms. NO. 540 Revenue [(LD6)2] Department dated 04.12.2014 and he has drawn our attention to clause (iv) thereat captioned 'Review Committee at District Level'. A scanned reproduction of the said G.O. is as hereunder:



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ABSTRACT

Encroachment - Formation of Various Committees to dispose the grievances relating to the eviction of encroachment in Government land - Directions of High Court of Madras in W.P.No.26722/2013 & M.P.No.1/13 - Implementation of orders of High Court of Madras - Orders - Issued.

Revenue [LD6(2)] Department

G.O.(Ms).No.540

Dated: 04.12.2014

**Thiruvalluvar Aandu 2045
Karthigai - 18**

Read:

1. Orders of High Court of Madras in W.P.No.26722/13, dated 11.08.2014.
2. From the Additional Chief Secretary and Commissioner of Land Administration Letter No. T2/22408/2014, dated 05.09.2014.
3. Orders of High Court of Madras in W.P.No.26722/2013, dated 08.10.2014.

ORDER:

In reference first read above, the Hon'ble High Court, in its order dated 11.08.2014 in W.P.No.26722/13 & M.P.No.1/13 filed by Thiru U.A. Marappa Gounder, has ordered as follows:-

The State Government must set forth a mechanism where aggrieved persons can complain and remedial action can be taken. Promptly, they are called upon to do so. We have thus, requested the learned Government Pleader to enter appearance in this matter and to obtain instructions from the State Government, in what manner such an authority be set up, due publicity given to the authorities where aggrieved persons would be first required to make their representations and a remedial action and reasoned response be communicated within a period of 30 days from such complaint being made. Once such a mechanism is set up, there would be no occasion to entertain a PIL, on the first instance in such matters as an administrative machinery would be available for remedying the position.

2. Based on the directions of the orders of the Hon'ble High Court of Madras, dated 08.10.2014, the Government have carefully examined the proposal of the Additional Chief Secretary and Commissioner of Land Administration in reference



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second read above and hereby, accord sanction for constitution of Redressal Committees for eviction of encroachment with the following procedures:-

(i) **General Procedure:** In general, as per Section 7 of Tamil Nadu Land Encroachment Act, 1905, before taking proceedings, the Collector or Tahsildar shall cause to serve on the person a notice calling upon him to show cause why he should not be evicted. Further as per notice under Section 6 of the Tamil Nadu Land Encroachment Act, 1905, any person unauthorizedly occupying any land may be summarily evicted by the Collector, Tahsildar, Deputy Tahsildar (or any other officers authorized by the State Government in this regard) by serving such notices in the manner prescribed under Section 25 of Tamil Nadu Revenue Recovery Act, 1864.

(ii) **Original Petition to be filed at Taluk level:**

- ❖ The petitioners seeking grievances for eviction of encroachment on Government land may file original petition before the respective Tahsildars.
- ❖ On receipt of such petition, the Tahsildar may cause inspection at least at the level of Deputy Tahsildar, to decide whether the Government land is being encroached or not. If convinced of the fact that the Government land is being encroached, he shall serve a "Show Cause Notice" to the encroacher under Section 7 of Tamil Nadu Land Encroachment Act, 1905. Subsequently, other procedure as laid down under the Tamil Nadu Land Encroachment Act should be followed within a stipulated time.
- ❖ A detailed written reply should be sent to the petitioner giving details of the action, if any, taken as per Tamil Nadu Land Encroachment Act, 1905 and the entire process shall be completed within 60 days from the date of receipt of petition.

(iii) **Appellate Committee at Divisional level:**

- ❖ This Committee shall admit only the **Appeal Petitions** on eviction of encroachment either on the ground of failure on the part of Tahsildar to give reply within 60 days or if the petitioner is not satisfied with the reply given or action taken by the Tahsildar.
- ❖ The Appellate Committee shall be constituted with the following officials:
 - 1) Revenue Divisional Officer;
 - 2) Deputy Superintendent of Police; and
 - 3) Deputy Inspector of Survey.



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- ❖ This Committee shall meet atleast once in a month and decide each and every case individually after giving an opportunity for the petitioner to be heard. The Committee shall also take up personal inspection, if required, along with Tahsildar and Surveyors, after giving advance intimation to the petitioner.
- ❖ A written communication should be sent to the petitioner conveying the decision of the above **Appellate Committee** within 30 days from the date of receipt of the Appeal Petition.

(iv) Review Committee at District Level:

- ❖ Any petitioner, who does not receive reply from the above Appellate Committee within the stipulated time or is not satisfied with the decision of the Appellate Committee, may file Review Petition before the **Review Committee**.
- ❖ The District Level Review Committee shall be constituted with the following officials:
 - 1) District Revenue Officer;
 - 2) Superintendent of Police; and
 - 3) Assistant Director of Survey.
- ❖ The **District Level Review Committee** shall meet at least once in a month and communicate its finding, within 30 days from the date of receipt of such petition, in a similar manner as described para 2 (iii).

(v) District Level Steering Committee:

- ❖ The details and nature of complaints received by the 'Divisional Level Review Committee' and 'District Level Review Committee' along with the gist of decisions taken, shall be presented before the existing 'District level Steering Committee on Encroachment' headed by District Collector already constituted vide G.O.Ms.No.105 Revenue Department dated 07.03.2001.

4. The Additional Chief Secretary and Commissioner of Land Administration is requested to issue necessary instructions to all District Collectors to constitute the above mentioned Redressal Committees immediately for eviction of encroachment. As per the directions of Hon'ble High Court of Madras dated 08.10.2014 in reference third read above, all the District Collectors are instructed to give necessary publicity on constitution of Redressal Committees on eviction of encroachments utilizing the media, pamphlets and other means of communication to the common public from



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the District level office upto the Village level. The Additional Chief Secretary and Commissioner of Land Administration is also requested to monitor the working of the Committees strictly and continuously.

(BY ORDER OF THE GOVERNOR)

**GAGANDEEP SINGH BEDI
SECRETARY TO GOVERNMENT.**

To

The Additional Chief Secretary and Commissioner of Land Administration, Chepauk,
Chennai-5.

All District Collectors.

Copy to:

The Home Department, Secretariat, Chennai-9.

The Public Works Department, Secretariat, Chennai-9

The Highways Department, Secretariat, Chennai-9.

Stock file / Spare copy.

//FORWARDED BY ORDER//

SECTION OFFICER.

9. In the light of the narrative and discussion thus far, more particularly, the aspect of factual discrepancies, we deem it appropriate to relegate the matter to the Review Committee at District Level referred to supra to test the impugned order on its own merits, in accordance with law and pass orders after giving an opportunity to the writ petitioner as well as 5th respondent, who is the alleged encroacher. Any other person whose rights

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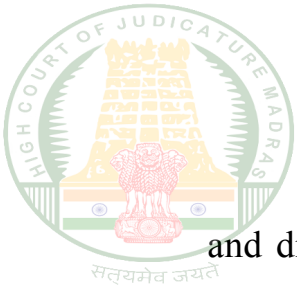
are likely to be affected should also be given an opportunity to show cause.

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10. As regards opportunity to show cause, it is not imperative to hold personal hearing as personal hearing will be at the discretion of the Review Committee. In other words, we make it clear that we are neither saying that personal hearing is imperative nor are we saying that personal hearing is not necessary. It will all depend upon the contest before the Review Committee and it is for the Review Committee to take a decision based on the nature of the contest before it as regards personal hearing.

11. Learned counsel for writ petitioner citing advanced age of writ petitioner requested for a timeline/time frame.

12. Owing to the aforementioned submission made by the learned counsel for writ petitioner, we direct the Review Committee at District Level to treat the affidavit in W.P. No. 12609 of 2024 and the documents filed therewith in the form of a typed set as review application



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and dispose of the matter after giving an opportunity to the writ petitioner, 5th respondent and all concerned as expeditiously as the business of the Review Committee would permit but in any event, within 12 weeks from today i.e., by 13.09.2024. A copy of the proceedings of the Review Committee disposing of the review shall be communicated to writ petitioner, 5th respondent and any other person concerned under due acknowledgement within seven working days from the date of disposal. We make it clear that we have not expressed any opinion or view on the merits of the matter, all questions are left open and therefore, the review will be considered on its own merits and in accordance with law.

13. Captioned WP is disposed of in the aforesaid manner. Consequently, captioned WMP is disposed of as closed. There shall be no order as to costs.

nv

(M.S.J.) (K.G.T.J.)
21.06.2024

To

1. The Assistant Survey Officer (North)/

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Direct Assistant Officer,
Office of Land Survey and Survey
Officer,
Chepauk, Chennai 600 005.

2. The District Revenue Officer,
O/o. The District Revenue Officer,
Vengikkal Village & Post,
Thiruvannamalai Taluk & District,
PIN – 606 604.
3. The Revenue Divisional Officer,
O/o. The Revenue Divisional Officer,
Tindivanam Road,
Thiruvannamalai Town & Taluk,
Thiruvannamalai District,
Pin – 606 601.
4. The Tahsildar,
O/o. The Tahsildar,
Chengam Town & Taluk,
Thiruvannamalai District,
PIN – 609 701.

P.S.I: Upload forthwith

P.S.II: All concerned (including the Registry of Madras High Court) to act forthwith on the uploaded soft copy of this proceedings as uploaded in the official website of this Court. To be noted, the soft copies uploaded in the official website of this Court are water marked, besides being QR coded.

M. SUNDAR,J.



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AND

K. GOVINDARAJAN THILAKAVADI, J.

nv

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&
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21.06.2024