



W.P.Nos.16836 and 16841 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2024

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**

and

THE HONOURABLE MRS.JUSTICE **K.GOVINDARAJAN THILAKAVADI**

W.P.Nos.16836 and 16841 of 2024

and

W.M.P. No.18518 of 2024 in W.P.No.16836 of 2024

and

W.M.P. No.18520 of 2024 in W.P.No.16841 of 2024

M.Malarvizhi

... Petitioner in
W.P.No.16836 of 2024

M.Mani Narayanan

... Petitioner in
W.P.No.16841 of 2024

Vs.

1.The Sub Collector,
Cheyyar Division,
Thiruvannamalai District.

2.The Tahsildar,
Vembakkam Taluk,
Thiruvannamalai District.

3.The Block Development Officer,
Rural Development Department,
Vembakkam Union,
Thiruvannamalai District.

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4.The President,
Cheyyanur Village Panchayat,
Vembakkam Union,
Thiruvannamalai District.

... Respondents in
both W.Ps

Writ Petitions filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorari to call for the proceedings in Na.Ka.Vu.A2/1617/2023 dated 20.06.2024 on the file of the respondent No.4 herein and quash the same as illegal, arbitrary and in violation of the principles of natural justice.

For Petitioner : Mr.Y.Prakash
in both W.Ps

For Respondents : Mr.T.K.Saravanan,
Govt. Advocate for R1 & R2
in both W.Ps
Mr.S.Arumugam,
Govt. Advocate for R3 & R4
in both W.Ps

COMMON ORDER

[Order of the Court was made by **M.SUNDAR, J.,**]

Captioned 'Writ Petitions' ['WPs' in plural and 'WP' in singular for the sake of brevity] pertain to 'two parcels of lands comprised in Survey Nos.107/3 and 108/3 admeasuring a total extent of 99.67

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cents or thereabouts in Cheyyanur Village, Cheyyar Taluk, Thiruvannamalai District' (hereinafter 'said lands' collectively for the sake of convenience and clarity). To be noted, 'Survey No.107/3' shall be referred to as 'first parcel of land' and 'Survey No.108/3' shall be referred to as 'second parcel of land' wherever the two parcels of land are not referred to collectively.

2. Mr.Y.Prakash, learned counsel for writ petitioners in the captioned two WPs submitted that the writ petitioners were originally visited with a notice dated 20.06.2024 from R4. We are informed that this notice is under Section 131(2) of 'The Tamil Nadu Panchayats Act, 1994', which shall hereinafter be referred to as 'Panchayats Act' for the sake of brevity, convenience and clarity. Prior to this notice dated 20.06.2024, writ petitioners were issued a notice dated 01.05.2024 by R4 under Section 7 of 'The Tamil Nadu Land Encroachment Act, 1905', which shall hereinafter be referred to as '1905 Act' for the sake of brevity, convenience and clarity.

3. Notwithstanding very many averments/grounds in the



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support affidavit, Mr.Y.Prakash, learned counsel predicated his argument on the primary contention that said lands are patta lands, not Government lands and that the writ petitioners have purchased the same under registered sale deeds from private parties.

4. As regards notice under Panchayats Act i.e., notice dated 20.06.2024, there is no difficulty as R4 has powers to send such a notice. As regards aforementioned notice under 1905 Act (notice dated 01.05.2024), the caption of the notice itself says that it is under Section 7 of 1905 Act and it comes to light that R4 does not have powers to issue notice under Section 7 of 1905 Act.

5. Issue notice i.e., notice regarding admission.

6. Mr.T.K.Saravanan, learned Government Advocate accepts notice for respondents 1 and 2 and Mr.S.Arumugam, learned Government Advocate accepts notice for respondents 3 and 4.

7. Considering the limited legal perimeter of the captioned



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matters, main WPs were taken up in the Admission Board with the consent of both sides.

8. As R4 does not have powers to issue notice under 1905 Act, the following order is passed:

8.1 Notices dated 01.05.2024 issued by R4 purportedly under Section 7 of 1905 Act are set aside (though notices dated 20.06.2024 are impugned notices qua prayers in captioned Wps);

8.2 Aforementioned notices are set aside solely on the ground of lack of jurisdiction i.e., R4 not having powers to do so and therefore we make it clear that we have not expressed any view or opinion on the merits of the matter qua contents of the notices;

8.3 Appropriate authority under 1905 Act, viz., Revenue Officials, Collector, Tahsildar, Deputy Tahsildar, Revenue Inspector or any authorised officer or any officer specified by the State Government on its behalf shall now issue Section 7 of 1905 Act notice if so advised;



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8.4 The language in which Section 7 is couched makes it clear that noticee should be show caused before further proceedings. 1905 Act is a self contained code which provides for appeal / revision i.e., appeal mechanism and therefore we say 1905 Act is a self contained code;

8.5 As we have paved the way for proceedings under 1905 Act which we are informed by State counsel applies to said lands, impugned notices dated 20.06.2024 are closed with liberty to R4 to resuscitate the same if need or necessity arises in future.

9. We dispose of the captioned WPs writing that R1 and R2 shall take a decision on issuing notice under Section 7 of 1905 Act and if notice is issued, the same shall be carried to its logical end in accordance with law depending on the merits of the response.

10. Captioned WPs are disposed of in the aforesaid manner with aforementioned observation/s and directive/s. Consequently, captioned Writ Miscellaneous Petitions (WMPs) thereat are disposed of

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as closed.

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(M.S.,J.) (K.G.T.,J.)
27.06.2024

Index : Yes / No
Neutral Citation : Yes / No
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P.S. I: Upload forthwith

P.S.II : All concerned including the revenue authorities 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.

P.S.III: Though captioned writ petitions are disposed of, Registry is directed to list the captioned Writ Petitions under the cause list caption 'FOR REPORTING COMPLIANCE' on 25.07.2024. Though we dispose of the captioned WPs, the revenue authorities would place a report before us.

To

1.The Sub Collector,
Cheyyar Division,
Thiruvannamalai District.

2.The Tahsildar,
Vembakkam Taluk,

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Thiruvannamalai District.

3.The Block Development Officer,
Rural Development Department,
Vembakkam Union,
Thiruvannamalai District.

4.The President,
Cheyyanur Village Panchayat,
Vembakkam Union,
Thiruvannamalai District.

**M.SUNDAR, J.,
and
K.GOVINDARAJAN THILAKAVADI, J.,**

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