



W.P.(MD) Nos.4402 to 4404 of 2012

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)Nos.4402 to 4404 of 2012
and M.P.(MD)Nos.1, 1 and 1 of 2012

1.R.James Arulappa (died)
2.J.R.Deepak

(P2 is substituted vide order dated 02.01.2024
in W.M.P.(MD)No.8554 of 2022)

... Petitioner in
W.P.(MD)No.4402/2012

R.Justin Arulappa

... Petitioner in
W.P.(MD)No.4403/2012

R.Devasahayam Arulappa

... Petitioner in
W.P.(MD)No.4404/2012

Vs.

The Commissioner,
Nagercoil Municipality,
Nagercoil.

... Respondent in
all W.Ps.

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WEB COMMON

COMMON PRAYER : Petitions filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records in connection with the impugned notice vide proceedings reference E.R.Nos.4, 1 and 2/2012 dated 26.03.2012 issued by the respondent and quash the same and forbear the respondent from interfering with the petitioner's peaceful enjoyment and possession otherwise than by due process of law.

For Petitioners : Mr.V.Balaji
(In all W.Ps) for Mr.Niranjan S.Kumar

For Respondent : No Appearance
(In all W.Ps)

COMMON ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

Challenging the impugned proceedings passed by the respondent in E.R.Nos.4, 1 and 2/2012 dated 26.03.2012, with a consequential direction to forbear the respondent from interfering with the petitioners' peaceful enjoyment and possession of the property, the petitioners have filed this Writ Petition.



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2. It is the case of the petitioners that they are the owners of the lands and the buildings constructed in portions of the lands in T.S.Nos.E.17/114, E.17/141, E17/142 and E.17/149, situate at Nagercoil. However, the said portions of the lands were wrongly classified as Government land, at the time of conducting resurvey. Hence, the petitioners' father filed an application before the Assistant Settlement Officer, Nagercoil for rectifying the mistakes and the same was dismissed on 04.10.1976. As against the said order, the petitioner's father has filed a revision petition before the Director of Settlement Officer. The said revision petition was also dismissed by the Director of Settlement Officer, Madurai on 29.11.1977. According to the petitioner, since the petitioners' father was died within three years from the date of said order, they were not aware of the order of Settlement Officer and they do not know anything about the further proceedings. When that being so, the present impugned eviction notices have been issued to the petitioners.

3. The learned counsel for the petitioners has relied upon the judgment and decree made in O.S.No.367 of 1992, dated 21.04.1993, filed by the one of



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the family members of the petitioners, which was decreed in favour of the family members of the petitioners. Therefore, the petitioners are also entitled to for the same benefit, since they are in occupation of the said property for more than fifty years. Therefore, the impugned orders are liable to be set aside.

4. There is no representation for the respondent.

5. We have carefully perused the materials placed on record and also the impugned orders. The impugned notices have been issued under Sections 182, 183, (1, 2, 3), 313 and 338 under the Tamil Nadu District Municipalities Act by asking the petitioners to evict the aforesaid premises, failing which necessary action will be taken under Section 313(4) of the Tamil Nadu District Municipalities Act. It is the contention of the petitioners that a decree has been passed in favour of one of their family members acknowledging the title over the property in question and therefore, the petitioners are entitled to the same benefit. It is not in dispute that the petitioner's father has filed an application before the Assistant Settlement Officer, Nagercoil and the said application was



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rejected on 04.10.1976. Challenging the aforesaid order, the petitioners' father has filed a revision before the Director of Settlement Officer and the same also came to be dismissed on 29.11.1977. In the light of the aforesaid fact, we are not inclined to accept the contention of the petitioners. Hence, there is no merit in the Writ Petitions.

6. Accordingly, these Writ Petitions are dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are also closed.

[D.K.K., J.] [R.V., J.]

03.01.2024

Neutral Citation: Yes / No
Index : Yes / No
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D.KRISHNAKUMAR, J.
and
R.VIJAYAKUMAR, J.

vsm

To:

The Commissioner,
Nagercoil Municipality,
Nagercoil.

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