



W.P.(MD) Nos.12035 and 14116 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE P.DHANABAL

W.P(MD)Nos.12035 and 14116 of 2023

and

W.M.P(MD)No.10353 of 2023

and

W.M.P(MD)No.11973 of 2023

W.P(MD)No.14116 of 2023:

Balasubramanian

... Petitioner

Vs.

- 1.The District Collector,
Sivagangai,
Sivagangai District.
- 2.The Tahsildar,
Manamadurai Taluk,
Sivagangai District.
- 3.The Block Development Officer,
Block Development Office,
Manamadurai,
Sivagangai District.
- 4.The President,
Melanettur Village Panchayath,
Manamadurai Taluk,
Sivagangai District.



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5.The Chief Education Officer,
District Education Office,
Sivagangai District Collector Office Campus,
Sivagangai District.

6.The District Elementary Education Officer,
District Collector Office Campus,
Sivagangai District.

7.Nallalu

8.Ravi

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 6 to initiate action against the respondent Nos.7 & 8 and to remove the encroachments made in Survey No.38/3, Alampacheri Village, Melanettur Revenue Village, Manamadurai Taluk, Sivagangai District and to restore the Elementary School land with an extent of 41.5 ares by considering the petitioner's representation dated 06.02.2023 and subsequent representation dated 14.02.2023 within a stipulated time that may be fixed by this Court.

For Petitioner

For RR1 to 6

For R-7

For R-8

:Mr.R.Karunanidhi

:Mr.P.Thilak Kumar,
Government Pleader

:Mr.R.Shankar Ganesh

:Mr.R.Vignesh

W.P(MD)No.12035 of 2023:

C.Nallalu

... Petitioner

Vs.

1 The District Collector,
Collectorate Office, Sivagangai District.



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- 2 The District Revenue Officer,
Office of the Dro, Manamadurai Taluk,
Sivagangai District
- 3 The Block Development Officer
Manamadurai Taluk, Sivagangai District
- 4 The Tahsildar
Manamadurai Taluk, Sivagangai District
- 5 The President
Melanettur Panchayat, Manamadurai Taluk,
Sivagangai District

6 Rajathi

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned notice bearing No.Nil dated Nil on the file of the 5th respondent and quash the same as illegal and consequently direct the 1st and 2nd respondents herein to rectify the error made in UDR classification wrongly classifying the land in S.No.38/3 of Melanettur Group, Alampacherry Village, Sivagangai District as Aalambacherry Natham Pallikudam and issue Patta in favour of the petitioner by considering the petitioner's representation, dated 08.05.2023.

For Petitioner	:Mr.R.Shankar Ganesh
For R-1 to R-5	:Mr.P.Thilak Kumar, Government Pleader
For R-6	:No Appearance



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COMMON ORDER

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

W.P(MD)No.14116 of 2023 is filed seeking for issuance of a Writ of Mandamus, directing the respondents 1 to 6, to initiate action against the respondent Nos.7 & 8 and to remove the encroachments made in Survey No.38/3, Alampacheri Village, Melanettur Revenue Village, Manamadurai Taluk, Sivagangai District and to restore the Elementary School land measuring to an extent of 41.5 ares by considering the petitioner's representation, dated 06.02.2023 and the subsequent representation, dated 14.02.2023.

2. W.P(MD)No.12035 of 2023, is filed to quash the order passed by the 5th respondent and to direct the 1st and 2nd respondents herein to rectify the error made in UDR classification by wrongly classifying the land in S.No.38/3 of Melanettur Group, Alampacherry Village, Sivagangai District as 'Aalambacherry Natham Pallikudam' and issue Patta in favour of the petitioner by considering the petitioner's representation, dated 08.05.2023.

3. Since the issue involved in the writ petitions is one and the same, these writ petitions are disposed of by way of this common order.



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4. Brief facts of the case is that there encroachments have been made in Survey No.38/3, Alampacheri Village, Melanettur Revenue Village, Manamadurai Taluk, Sivagangai District, which is classified as 'Natham'. In this regard, the petitioner in W.P(MD)No.14116 of 2023, has made a representation, seeking to take action for removal of such encroachments. Since no action has been taken by the authorities, the said writ petition has been filed.

5. In the meantime, the President of the Panchayat has passed an order directing the petitioner in W.P(MD)No.12035 of 2023 and the eighth respondent in W.P(MD)No.14116 of 2023, to remove the encroachment. Challenging the said order, W.P(MD)No.12035 of 2023 has been filed on the ground that no opportunity was granted to the petitioner before passing the impugned order.

6. We have heard the learned counsel appearing on either side and perused the materials placed before us.

7. It is seen that the impugned order has been passed by the respondent – panchayat asking the petitioner in W.P(MD)No.12035 of 2023 and the eighth respondent in W.P(MD)No.14116 of 2023, to remove the encroachment within seven days. The allegation of the petitioner is that no opportunity was granted to him before passing the impugned order.



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However, there is no reference to show that opportunity was granted to the encroachers to submit their explanation/objection. The learned Government Pleader also cannot dispute the said fact that no opportunity was granted to the encroachers.

8. In view of the same, the order impugned in W.P(MD)No.12035 of 2023, shall be treated as a show-cause notice asking explanation from the encroachers for removal of encroachment in the property in question. The encroachers shall submit their explanation/objection before the second respondent-Tahsildar, within a period of two weeks from the date of receipt of a copy of this order and thereafter, the second respondent shall consider the same and pass appropriate orders on merits and in accordance with law, after providing opportunity to all the parties concerned, within a period of ten weeks thereafter.

With the above directions, these writ petitions are disposed of.
No Costs. Consequently, connected Miscellaneous Petitions are closed.

[D.K.K., J.]

[P.D.B., J.]

08.03.2024

Index : Yes/No
NCC : Yes/No

PM



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Sivagangai,
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Manamadurai Taluk,
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D.KRISHNAKUMAR, J.
and
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