



W.P(MD)No.28575 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 04.01.2024

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE B.PUGALENDHI**

**W.P(MD)No.28575 of 2023
and
W.M.P(MD)No.24624 of 2023**

- 1.Ramesh
- 2.Raja
- 3.Sakthivel
- 4.Pandi
- 5.Vellakannu
- 6.Selvi
- 7.Karpagam
- 8.Pandurai
- 9.Selvi
- 10.Arjunan
- 11.Pasupathy
- 12.Chinnakalai



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13.Ulagi

14.Chinnaya

15.Andiyappan

16.Andathal

17.Vellaikannu

... Petitioners

Vs.

1.The District Collector,
Sivagangai District,
Sivagangai.

2.The Deputy Tahsildar,
Thiruppathur Taluk,
Sivagangai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned notices under Section 7 of Tamil Nadu Land Encroachment Act, 1905 by the second respondent dated 07.02.2018 in respect of Survey Number 108/6, Thariyampatti Village, Thiruppathur Taluk, Sivagangai District and quash the same as illegal and direct the respondents to issue patta to the petitioner for the same.

For Petitioners : Mr.T.Kumar

For Respondents : Mr.K.Balasubramani
Special Government Pleader



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ORDER

Heard both sides.

2.In this writ petition, notice issued under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 on 07.02.2018 has been put to challenge.

3.The learned Special Government Pleader points out that order under Section 6 of the Act was passed on 20.04.2023 and that the petitioners have filed an appeal before the District Collector under Section 10 of the Act. It is also pointed out that the petitioners have been given alternative sites.

4.The alternative site identified by the District Administration does not appears to be a suitable one. When this was pointed out, the learned Special Government Pleader submitted that they are ready to consider granting some other alternative site. This submission made by the respondents is placed on record.

5.In a co-ordinate Bench, we one of us a party (Hon'ble Mr.Justice B.Pugalendhi) had passed the following on 08.12.2023 in Cont.P(MD)No.1476 of 2023 in W.P(MD)No.22401 of 2018:



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“3. Once an alternate house site has been provided to the encroachers they are expected to shift their residences from the water body to the allotted land, enabling the authorities to maintain the water body for protecting the water resource in that locality. Since the respondents have provided alternate site to the encroachers, we do find any reason to consider their claim and therefore, the respondents shall proceed with the eviction and protect the water body to maintain the water resource in that locality. The said exercise is directed to be completed within a period of four weeks from the date of receipt of a copy of this order.”

The appellate authority shall pass final order on the petitioner's appeal on merits and in accordance with law within a period of four weeks from the date of receipt of a copy of this order. The petitioner shall not be dispossessed till the appeals are disposed of.

6. With this direction, this writ petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

[G.R.S., J.] [B.P., J.]
04.01.2024

NCC : Yes / No
Internet : Yes / No
Index : Yes / No
MGA



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Sivagangai District.



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G.R.SWAMINATHAN, J

and

B.PUGALENDHI, J.

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