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C.R.P.Nos.2129, 2130, 2131, 2135 & 2119 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 24.06.2024
PRONOUNCED ON : 09.01.2025

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

C.R.P.Nos.2129, 2130, 2131, 2135 & 2119 of 2024

and

C.M.P.Nos.11160, 11269, 11307, 11309, 11310 & 11318/2024

1.Fathima David	... Petitioner in CRP.2129/2024
2.John Bosco	... Petitioner in CRP.2130/2024
3.Frances Maria Paul	... Petitioner in CRP.2131/2024
4.Regina	... Petitioner in CRP.2135/2024
5.Paulin	... Petitioner in CRP.2119/2024

Vs.

The Estate Officer
C/o.Chief Executive Officer,
C/o.Cantonment Board,
St.Thomas Mount-cum-Pallavaram
Cantonment,
Chennai – 600 016.

... Respondent in all CRPs

COMMON PRAYER IN ALL CRPs: Civil Revision Petitions filed under Article 227 of the Constitution of India, to set aside the Fair order made in PP C.M.A.Nos.10, 11, 13, 9 & 12 of 2019 respectively in C.R.P.Nos.2129, 2130, 2131, 2135 & 2119 of 2024, on the file of the Principal District Judge, Kancheepuram District at Chengalpattu, dated 23.02.2024, and thereby allow the above Civil Revision Petitions.



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C.R.P.Nos.2129, 2130, 2131, 2135 & 2119 of 2024

For Petitioner : Mr.K.Sakthivel
(In all Petitions) For Mr.S.Vijayakumar

For Respondents : Mr.C.Mohan &
(In all Petitions) Ms.A.Rexy Josephine Mary
for M/s.King and Partridge

COMMON ORDER

Since the issue involved in all the Civil Revision Petitions is one and the same, they are disposed of by this common order.

2. The Civil Revision Petitions are filed to set aside the Fair orders made in PP C.M.A.Nos.10, 11, 13, 9 & 12 of 2019 respectively in C.R.P.Nos.2129, 2130, 2131, 2135 & 2119 of 2024, on the file of the Principal District Judge, Kancheepuram District at Chengalpattu, dated 23.02.2024.

3. Mr.K.Sakthivel, the learned counsel appearing for the petitioners would submit that the petitioners and their father are all in continuous physical possession and enjoyment of the property for more than six decades and they are not encroachers. The petitioners are in possession of the property from the year 1967 and the Respondent collected all taxes including Property Taxes, Water Taxes



from the Petitioners from the year 1967 onwards. The Respondent not objected the possession of the property by the Petitioner since from the fore-fathers of the Petitioner and all of a sudden, the Respondent issued the unauthorized occupants Notice under Section 5 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, after a period of more than six decades in the year 2017. The Petitioners' father was assessed for Property Tax in respect of the property even prior to 1973 and the Respondent has provided Property Code P04419, which clearly shows that the Subject matter of property was regularized by the Respondent.

4. The learned counsel for the Petitioners further submitted that the Respondent sanctioned Water Service Connection to the subject matter of the houses by way of Finance and Public Works Committee Resolution No.10, dated 01.12.1984 duly approved by the Cantonment Board Resolution No.3, dated 14.12.1984. These facts emphatically confirms that the subject matter of property is an approved and regularized property by the Respondent and if the property is an encroached property, the Cantonment Board would not have granted water connection in the year 1984. The Respondent has not verified with the General Land Register maintained under the Cantonment



Land Administration Rules 1926 with respect to nature of grants.

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5. Moreover, the learned counsel submitted that the subject property is classified as B4 lands and thereby, these lands fall within the ambit of Rule 8 of The Cantonment Land Administration Rules, 1925, meant for building sites and these Rules do not contemplate the removal of existing occupiers of land and in fact, this Rule contemplates regularization of occupants. In case, the Respondent verifies the Land Register as contemplated under Rule 13, the nature of grant made to the Petitioners' father can be gone into. It is submitted that the father of the Petitioners born in the year 1917 and lived his entire life in the same place, till his demise in the year 2010 at the age of 93. Further, Petitioners' forefather also lived in the subject matter of property and therefore, it is grant under the Cantonment Regulations granted to the Petitioners' forefather. Thus, the Petitioners cannot be construed as encroached persons.

6. The learned counsel for the petitioner further submitted that according to the Cantonment Land Administration Rules, 1937, B4 lands are classified as other quarries, which are not vested with Cantonment Board and also not vested with the Military Engineer



Services. Thereby, the occupiers of such B4 lands are entitled for legal possession subject to transfer of the same in accordance with the Cantonment Land Administration Rules, 1937. Only by way of 1942 order, the Central Government entrusted with the Management of B(4) Lands to the Cantonment Boards. The learned counsel, in support of his contentions, has relied on the decision of the Hon'ble Apex Court in ***Malluru Mallappa (Dead) through Legal Representatives vs. Kuruvathappa and Ors.*** reported in ***(2020) AIR (SC) 925***, wherein it has been held at paras Nos.19 & 20 as under:-

“19. It is clear from the above provisions and the decisions of this Court that the judgment of the first appellate court has to set out points for determination, record the decision thereon and give its own reasons. Even when the first appellate court affirms the judgment of the trial court, it is required to comply with the requirement of Order XLI Rule 31 and non-observance of this requirement leads to infirmity in the judgment of the first appellate court. No doubt, when the appellate court agrees with the views of the trial court on evidence, it need not restate effect of evidence or reiterate reasons given by the trial court. Expression of a general agreement with the reasons given by the trial court would ordinarily



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suffice.

20. Keeping in mind the above principles, let us examine the present case. As stated above, the issue relating to readiness and willingness of the plaintiff to perform his part of the contract and issue relating to limitation were held against the plaintiff and the suit was accordingly dismissed. The appeal before the High Court involved both disputed questions of law and fact. The High Court without examination of any of these aspects has dismissed the appeal by a cryptic order. The court below has neither reappreciated the evidence of the parties, nor it has passed a reasoned order. The High Court has failed to follow the provisions of [Order XLI Rule 31 CPC](#) while deciding the appeal. Mr. Bhat has argued that the suit was well within time under [Article 54](#) of the [Schedule to the Limitation Act](#). Even this question has not been examined in its proper perspective."

7. Per contra, Mr.C.Mohan, the learned counsel appearing for the Respondent would submit that the present Revisions are filed only to drag on the proceedings. The payment of Taxes and Electricity charges paid by the Petitioners are against the law, as they are unauthorized occupation after orders passed by the Estate Officer and



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the present occupation of the Petitioners were declared as unauthorized occupation. The present Civil Revision Petitions lacks bonafide and deserves no merits. The learned counsel, in support of his contentions, has relied on the Judgments of the Apex Court in ***Shanti Sports Club Vs. Union of India*** reported in ***(2009) 15 SCC 705***; in ***Priyanka Estates International (P) Ltd., Vs. State of Assam*** reported in ***(2010) 2 SCC 27***; in ***Sunil Kumar Kori Vs. Gopal Das Kabra*** reported in ***(2016) 10 SCC 467***; Further, the learned counsel relied on the decision of this Court in ***P.Mohan Vs. The Chief Executive Officer*** reported in ***2017 SCC OnLine Mad 21105***.

8. I have heard the learned counsels appearing on either side and carefully perused the materials available on record.

9. According to the Petitioners, the Petitioners are in possession of the property for more than 60 years. The Petitioners' father one S.T.Manuel owned property in Door No.8/126, Depot Land, GST Road, Cantonment, Pallavaram, to an extent of 4539 sq.ft., in Survey No.162, Cantonment Pallavaram, by construction a residential building in the year 1960 and the same is assessed to Property Tax,



which has been collected by the Cantonment Board. After the demise of Petitioners' father, his legal heirs, who are the Petitioners herein, entered into a registered Partition Deed, dated 21.09.2011 and enjoyment of the property by paying taxes.

10. On perusal of the records it is seen that the Petitioners' father S.T.Mnuel is not a regularized occupant. As on date, the Petitioners are in occupation / possession of the property as encroachers and they are not owners of the property. To support the contentions that the Petitioners cannot be removed, but to be regularized, as per the Cantonment Land Administration Rules, 1937, the Petitioners have not produced any document to show that they took steps to regularize their occupation for the past 60 years. In the considered opinion of this Court, the Revisions absolutely lacks merit.

11. However, considering the fact that the Petitioners are in possession of the property for more than 60 years, without any hindrance, the Petitioners are at liberty to submit a representation with relevant documents before the Respondent, within a period of 30 days from the date of receipt of a copy of this order, requesting to regularize their occupation and on receipt of such representation, the



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Respondent is directed to consider the same on its own merits and proceed further in accordance with law. This order is passed considering all the facts and circumstances of the case and it cannot be taken as a precedent.

12. With such liberty, the Civil Revision Petitions are disposed of. Consequently, the connected miscellaneous petitions are closed. However, there shall be no order as to costs.

09.01.2025

Speaking Order/Non Speaking Order
Index : Yes/No
Internet : Yes
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To

1. The Principal District Judge,
Kancheepuram District
Chengalpattu,



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M.NIRMAL KUMAR, J.

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PRE-DELIVERY ORDERSS
in
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09.01.2025