

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :: 10.8.2015

CORAM:

THE HONOURABLE MR.JUSTICE SATISH K. AGNIHOTRI

AND

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

W.P. No.14645 of 2015

V.Sankaran

petitioner

versus

- 1 The District Collector
Office of the Collectorate, Nagapattinam
Nagapattinam District.
- 2 The Tahsildar
Office of Tahsildar Vedaranyam Taluk,
Nagapattinam District.
- 3 The Executive Engineer
Public Works Department Vennaru Division
Opp. to Indian Bank Thiruvarur
Thiruvarur District.
- 4 The Village Panchayat
President Thanikottagam Village Vedaranyam
Taluk Nagapattinam District. ...

respondents

Writ Petition filed under Art.226 of the Constitution of India praying for a Writ of Mandamus Forbearing the respondents from evicting the petitioner from his possession and cultivation of the land comprised in Survey No.243/2A1 situated at Vanankadu Thanikottagam Village Vedaranyam Taluk Nagapattinam District without due process of law.

For petitioner : Mr.K.Venkatramani, Senior Counsel,
Mr.V.Kasinatha Bharathi

For Respondents : Mr.K.R.Tamilmani,
for Mr.J.Sathiamurthi, for R-4

Mr.P.S.Sivashanmugasundaram, Spl.G.P.,
for respondents 1 to 3

O R D E R
(made by K.K.SASIDHARAN, J.)

The petitioner claiming himself to be in occupation of Government land, seeks a Writ of Mandamus to restrain the respondents from evicting him without following due process of law.

The facts :-

2. The petitioner is stated to be in possession and enjoyment of an Eri poromboke land comprised in S.No.243/2A1, at Thanikottagam Village in the District of Nagapattinam. The revenue authority issued "B" memo to the petitioner, taking into account his continuous possession of poromboke land. According to the petitioner, the second respondent made an attempt to evict him with the assistance of officials on 9 September 2014. The attempt was stalled by the local people. The petitioner thereafter submitted series of representations requesting the respondents not to evict him. The petitioner filed Writ Petition in W.P.No.26445 of 2014 to direct the district administration not to evict him without following due process of law. The Writ Petition was disposed of on the basis of the undertaking given by the learned Government Pleader that due process of law would be followed in the matter. It is the grievance of the petitioner that notwithstanding the order dated 25 September 2014, in W.P.No.26445 of 2014, the respondents made yet another attempt to evict him. The petitioner therefore filed the present Writ Petition.

3. The District Collector, Nagapattinam District, filed a counter affidavit taking into account the query raised by this Court. The District Collector in his affidavit dated 4 August 2015, submitted that the petitioner was evicted from Government land in 2014. According to the District Collector, the land in question has already been handed over to the Panchayat for deepening and strengthening the Eri.

4. The 4th respondent filed a detailed counter affidavit wherein it was contended that the Government have sanctioned considerable amount to widen the Eri in question. According to the 4th respondent, the Government have already taken possession of poromboke lands from encroachers like the petitioner and the work was allotted to the local people under the Mahathma Gandhi National Rural Employment Guarantee Scheme.

Submissions :-

5. The learned Senior Counsel for the petitioner contended that the petitioner has been in possession and enjoyment of the property in question for the last many years. According to the learned senior counsel, the petitioner is still in possession and enjoyment of the land and the so called eviction is nothing but a ruse to justify the illegal action taken by the district administration to evict him subsequent to the disposal of the earlier Writ Petition in W.P.No.26445 of 2014. The learned Senior Counsel further contended that the petitioner is in possession of several documents to show his

continuous possession of the property and as such, he should be permitted to retain possession of the land in question.

6. The learned Government Pleader contended that the petitioner is not in occupation of the encroached land. The property has already been handed over to the village panchayat for widening the Eri.

7. The learned counsel for the 4th respondent contended that the petitioner claimed possession of Eri poromboke and he was rightly evicted. The land is now in the possession of the local body.

Analysis :-

8. The petitioner filed this Writ Petition claiming that he is in possession and enjoyment of the property in S.No.243/2A1. The affidavit filed in support of the Writ Petition does not contain any indication with regard to the extent of the property stated to be in the possession of the petitioner. The petitioner has come up with a grievance that even after the order dated 25 September 2014 in W.P.No.26445 of 2014, attempt was made to evict him without following due process of law. The District Collector on the other hand has contended that the petitioner has already been evicted and the land was handed over to the Village Panchayat, vide proceedings dated 8 September 2014.

9. The District Collector inspected the land in question on 31 July 2015 in the presence of the petitioner and other revenue officials. The inspection conducted by the District Collector found that the land is classified as Vanankottagam Eri. The extent of the property is about 189 acres. The village panchayat has raised necessary funds to raise bunds on either side of the Eri. The District Collector found that the petitioner formed a mud road from east to west on Vanankottagam Eri from Thiruthuraipoondi to Vedaranyam Main Road, to be used as an access to his patta land. The District Collector reported that the petitioner is having another way from western side to his patta land and therefore, the mud road is not at all necessary for him.

10. The affidavit filed by the District Collector dated 4 August 2015 clearly shows that the encroachment made by the petitioner was removed and the property was handed over to the local body as early as on 8 September 2014. The counter affidavit filed by the 4th respondent also contain a clear indication that the local body is in the process of restoring the Eri to its original position by raising bund on either side of the Eri under Mahathma Gandhi National Rural Employment Guarantee Scheme.

11. The petitioner has taken up several contentions on facts. The petitioner wanted this Court to examine the documents and arrive at a finding with regard to his possession. There is no question of considering those documents at this point of time. We, therefore, do not find any reason to issue a Mandamus as prayed for by the petitioner.

12. In the upshot, we dismiss the Writ Petition. No costs. Consequently, M.P.Nos.1 to 3 of 2015 are closed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

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To

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President Thanikottagam Village Vedaranyam
Taluk Nagapattinam District.

+1 cc to Mr.Sathiyamurthi, Advocate, sr.41455
+1 cc to Mr.V.Kasinatha Bharathy, Advocate, sr.41426
+1 cc to The Government Pleader, sr.41624

W.P. No.14645 of 2015

jp(co)
kra(26/08)

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