

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2015

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

W.P. No. 25177 of 2015

&

M.P. No. 1 of 2015

Shanmugam

... Petitioner

Vs.

1. The District Collector,
Thiruvannamalai.
2. The President,
Madhulampadi Panchayat,
Madhulampadi, Nookampadi Post,
Thiruvannamalai District.
3. The Block Development Officer,
Thurinjapuram Union,
Panchayat Union Officer,
Thurinjapuram,
Thiruvannamalai Taluk.

... Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Prohibition prohibiting the respondents from interfering with the petitioner's possession of the lands in Survey No. 179 of Madhulampadi Village, Thiruvannamalai Taluk classified as Road (Paattai) lying in between the petitioner's patta lands and Kamalaputhur Road in existence.

For Petitioner : Mr.L. Abrar Mohammed Abdullah

For Respondents : Mrs.M.E. Rani Selvam,
Addl. Govt. Pleader for R1
Mr.R.A.S. Senthilvel,
Addl. Govt. Pleader for R2 & R3

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O R D E R

This writ petition is filed for issue of a Writ of Prohibition prohibiting the respondents from interfering with the petitioner's possession of the lands in Survey No. 179 of Madhulampadi Village, Thiruvannamalai Taluk classified as Road (Paattai) lying in between the petitioner's patta lands and Kamalaputhur Road in existence.

2. The case of the petitioner is that he is the owner of an agricultural land to an extent of 1 acre 8 cents in Survey No. 178/7 and 8 of Madhulampadi Village, Thiruvannamalai Taluk. The petitioner would further state that the land in Survey No. 178 is bounded on the east by land in Survey No. 179 measuring about 1.20.0 hectares equivalent to 2 acres and 96 cents. The said Survey No. 179 is classified as Road (Paattai) in the Village "A" Register. According to the petitioner, there is a Pucca Road leading to Kamalaputhur in the said Survey No. 179. In between the road and the petitioner's patta lands, there is a narrow strip of land in Survey No. 179. Right from the date of purchase of the lands in Survey No. 178 under a sale deed dated 30.12.1985, the petitioner has been cultivating his patta land in Survey No. 178 and also enjoying the narrow strip of land in Survey No. 179. Penal charges have also been levied from the petitioner for his occupation of the narrow strip of the poramboke land classified as Road (Paattai). While so, according to the petitioner, the respondents have recently started digging the earth in the land in Survey No. 179 in between the petitioner's patta lands and the Kamalaputhur Road damaging the crops cultivated by the petitioner. On enquiry, the petitioner came to know that the said lands have been chosen as the site for construction of Village Service Centre (Grama Seva Maiyam) under the Mahatma Gandhi National Rural Employment Scheme. Hence, apprehending that irreparable loss and hardship would be caused, if the respondents are allowed to put up construction, the petitioner has approached this Court.

3. Heard Mr. Abrar Mohammed Abdullah, learned counsel for the petitioner, Mrs. M.E. Rani Selvam, Additional Government Pleader appearing for the 1st respondent and Mr. R.A.S. Senthilvel, learned Additional Government Pleader appearing for respondents 2 and 3.

4. A perusal of the records, especially, Patta No. 1112 would reveal that the petitioner is having properties in his name in respect of S.Nos. 158, 168, 178 and adjoining his property, there is a strip of land in S.No. 179. It is also evident that the petitioner has been paying penal charges for occupying the said strip of land

comprised in S.No. 179 as per the tax receipt issued by the Village Administrative Officer. Therefore, it is clear that the petitioner is in possession of the narrow strip of land in S.No. 179. Since the petitioner is in possession of the strip of poramboke land, which has been classified as Road (Paattai), the respondents are directed to issue notice to the petitioner under the Land Encroachment Act or whichever Act is applicable within a period of four weeks from the date of receipt of a copy of this order. On receipt of such notice, the petitioner shall give his reply within a period of two weeks thereafter. On receiving the reply from the petitioner, the authority concerned shall pass appropriate orders, after giving an audience to the petitioner, within a period of four weeks thereon. However, till final orders are passed, the respondents are prohibited from interfering with the petitioner's possession of the land in question. The writ petition is disposed of accordingly. No costs. Connected M.P. is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

nv

To

1. The District Collector,
Thiruvannamalai.
2. The President,
Madhulampadi Panchayat,
Madhulampadi, Nookampadi Post,
Thiruvannamalai District.
3. The Block Development Officer,
Thurinjapuram Union,
Panchayat Union Officer,
Thurinjapuram, Thiruvannamalai Taluk.

+1cc to Mr.R.Subramanian, Advocate, S.R.No.44022
+1cc to the Government Pleader, S.R.No.43828

W.P. No. 25177 of 2015

TS(CO)
CA(02/09/2015)