

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.03.2015

CORAM:

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI

AND

THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.P. No.8808 of 2015 and M.P. No.1 of 2015

P. Durai

... Petitioner

vs.

1. The District Collector
Kancheepuram District
Kancheepuram
2. The Commissioner
Corporation of Chennai
Ripon Building
Park Town
Chennai 600 003
3. The Tahsildar
Shozinganallur Taluk
Kancheepuram District
4. The Assistant Engineer
Tamil Nadu Electricity Board
Injampakkam
Chennai 600 119
5. The Inspector of Police
Neelankarai Police Station
Neelankarai
Chennai 600 041

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari, calling for the entire records of the third respondent in pursuance of the notices issued under Sections 6 and 7 of the Tamil Nadu Land Encroachment Act, 1905 dated 04.03.2015 and 23.01.2015 respectively and quash the same.

For petitioner : Mr. A. Ramu
For RR 1,3 and 5 : Mr. N. Sakthivel
Government Advocate
For R2 : Mr. G. Anantharangan

ORDER

(Order of the Court was made by SATISH K. AGNIHOTRI, J.)

With the consent of the learned counsel for the petitioner, the learned Standing Counsel appearing for the second respondent and the learned Government Advocate appearing for respondents 1, 3 and 5, the writ petition is taken up for final disposal, at the admission stage itself.

2 The petitioner, claiming to be in possession and occupation of the property in question at Survey No.249, Injambakkam Village, Sholinganallur Taluk, has come up with the instant writ petition, purportedly seeking a writ of certiorari against the notice dated 04.03.2015 issued under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 (for short "the Act") as well as the notice dated 23.01.2015 issued under Section 7 of the Act.

3 The case of the petitioner is that the third respondent has exceeded his jurisdiction by mentioning the wrong survey number in the impugned notices dated 04.03.2015 and 23.01.2015 issued under Sections 6 and 7 respectively of the Act. In fact, the survey number of the land in question is not 253/2, but, 249. Thus, this is a fit case for issuance of a writ of certiorari.

4 The learned Government Advocate appearing for respondents 1,3 and 5 submits that the impugned notices have not been issued in exercise of quasi judicial power. The impugned notices are administrative orders passed with an intent to secure removal of encroachment, after affording a proper opportunity of hearing and as such, a writ, in the nature of a certiorari, is not available in the instant case.

5 Without going into the legal position in this case, as the issue is only with regard to the mentioning of a wrong survey number, we are of the considered opinion that the concerned authority, viz., the Tahsildar, the third respondent herein, will look into the impugned notices and issue a fresh notice and pass fresh orders, on surveying and proper inspection of the land in question, in accordance with law, if the survey number has been wrongly mentioned

and take consequential action as required under the statute, within the prescribed time.

6 The writ petition stands disposed of with the above observation. No costs. Connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

cad

To

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Kancheepuram
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Injampakkam
Chennai 600 119
5. The Inspector of Police
Neelankarai Police Station
Neelankarai
Chennai 600 041

+1cc to Mr.A.Ramu, Advocate, S.R.No.17470
+1cc to Mr.G.Anantharangan, Advocate, S.R.No.17593
+1cc to the Government Pleader, S.R.No.17552

VGI (CO)
CA(06/04/2015)

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