

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2016

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE MR. JUSTICE M. VENUGOPAL

W.P. No.1042 of 2016 and W.P. No.28338 of 2014 and
M.P. No.1 of 2014

W.P.No.1042 of 2016

Ramalingam

Petitioner in W.P. No.1042 of 2016

vs.

1 The Revenue Divisional Officer
Cuddalore Division
Cuddalore

2 The Tahsildar
Kurinjiipadi Taluk
Cuddalore District

3 Ramachandran

Respondents in W.P. No.1042 of 2016

W.P. No.28338 of 2014

Ramachandran

Petitioner

vs.

1 The Collector
Cuddalore District
Cuddalore

2 The Tahsildar
Kurinjiipadi Taluk
Kurinjiipadi
Cuddalore District

3 The Taluk Surveyor
Kurinjiipadi Taluk Office
Kurinjiipadi
Cuddalore District

4 The Superintendent of Police
Cuddalore District
Cuddalore

5 The Inspector of Police
Vadalar Police Station
Vadalar

6 Ramalingam

7 Thangasamy

Respondents in W.P. No.28338 of 2014

Prayer in W.P. No.1042 of 2016:

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the second respondent to take action as per the orders of the first respondent made in Na.Ka.No.A7/3826/2014 dated 24.09.2014 within a reasonable time.

Prayer in W.P. No.28338 of 2014:

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus forbearing respondents 1 to 5 from interfering with the petitioner's peaceful possession of the house and property in S.No.227/7 0.0064 ares in Arangamangalam Village, Kurinjipadi Taluk, Cuddalore District, except by due process of law.

For petitioner in	
WP No.1042 of 2016	Mr. S. Anand Venkatesh
For RR 1 & 2 in	Mr. P.S. Sivashanmugasundaram
WP No.1042 of 2016	Special Government Pleader
For R3 in	Ms. Grihalakshmi
WP No.1042 of 2016	for Mr. R. Gururaj
For petitioner in	Ms. Grihalakshmi
WP No.28338 of 2014	for Mr. R. Gururaj
For RR 1-5 in	Mr. P.S. Sivashanmugasundaram
WP No.28338 of 2014	Special Government Pleader
For R6 in	
WP No.28338 of 2014	Mr. N. Anand Venkatesh
R7 in	
WP No.28338 of 2014	No appearance

COMMON ORDER

(delivered by SATISH K. AGNIHOTRI, J.)

The property involved in both the writ petitions are common being Survey No.227/6 and 227/7, Arangamangalam Village, Kurinjipadi Taluk, Cuddalore District and as such, the facts are intertwined. Accordingly, with consent, both the writ petitions are taken up together for final disposal.

2 The petitioner in W.P. No.28338 of 2014, stated to be the lawful owner of the property on the basis of patta, has come up with the said writ petition seeking a direction to the official respondents not to interfere with his peaceful possession of the house and property in S.No.227/7 in Arangamangalam Village, Kurinjipadi Taluk, Cuddalore District, except by due process of law. In the said writ petition, viz., W.P. No.28338 of 2014, by order dated 30 October 2014, an order of interim injunction was passed.

3 Thereafter, the second writ petition, being W.P. No.1042 of 2016 was filed by one Ramalingam, who is the sixth respondent in W.P. No.28338 of 2014, seeking a direction to the second respondent, viz., the Tahsildar, Kurinjipadi Taluk, Cuddalore District, to take action as per the proceedings dated 24 September 2014 of the first respondent, viz., the Revenue Divisional Officer, Cuddalore, whereby and whereunder, the first respondent informed the second respondent to remove the encroachment made by the petitioner in W.P. No.28338 of 2014, who is the third respondent in W.P. No.1042 of 2016, as the passage in question, has been encroached by him by putting up thatched house. However, no further action could be taken on account of the order of interim injunction passed by this Court on 30 October 2014.

4 Taking note of the subsequent writ petition being W.P. No.1042 of 2016, notice was issued. In response, the Tahsildar, Kurinchipadi Taluk, has filed counter affidavit stating as under:

"3. The third respondent encroached to an extent of 1.2 meter on the eastern side by putting thatched house. The third respondent filed W.P. No.28338/2014 restraining the respondent from interfering with his possession and enjoyment of the house and disputed no pathway as an existence as claimed by the writ petitioner herein and the writ petition is pending. The second respondent now issued notice dated 20.1.2016 under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 and the same was refused and hence it was affixed on the wall after following due procedure. The respondent herein to take action in accordance with law in terms of the notice dated 20.1.2016. The second respondent herein joined office on 27.11.2015 and worked only 3 months before March, 2015."

5 Indisputably, taking advantage of the interim injunction granted by this Court on the basis of production of some patta, the petitioner in W.P. No.28338 of 2014 continued in possession without placing his case before the authorities. Now, one more notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 has been issued on 20 January 2016. The said notice is in the form of a show cause notice. The petitioner in W.P. No.28338 of 2014 is, accordingly, directed to file response/representation before the authority concerned, putting forward his case with relevant documents. The facts, being disputed, cannot be examined by this Court in exercise of its extraordinary jurisdiction under Article 226 of the Constitution of India.

Accordingly, both the writ petitions are disposed of directing the Revenue Divisional Officer, Cuddalore Division, Cuddalore and the Tahsildar, Kurinjipadi Taluk, Cuddalore District, to consider the representation, if any, filed by the petitioner in W.P.No.28338 of 2014, viz., Ramachandran, within a period of two

weeks, advertng to all the issues raised by him. If need be, consequential action, thereafter, can be taken within a further period of two weeks. No costs. Connected M.P. is closed.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

vvk

To

- 1 The Revenue Divisional Officer
Cuddalore Division
Cuddalore
- 2 The Tahsildar
Kurinjpadi Taluk
Cuddalore District
- 3 The Collector
Cuddalore District
Cuddalore
- 4 The Taluk Surveyor
Kurinjpadi Taluk Office
Kurinjpadi
Cuddalore District
- 5 The Superintendent of Police
Cuddalore District
Cuddalore
- 6 The Inspector of Police
Vadalur Police Station
Vadalur

2 ccs to Mr.R. Gururaj, Advocate Sr. 19193, 19194
1 cc to Mr.N. Anand Venkatesh, Advocate, Sr. 19331

W.P. No.1042 of 2016
&
W.P. No.28338 of 2014

KSJ (CO)
kk 15/4