

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18-01-2016

CORAM :

THE HON'BLE MR.JUSTICE SATISH K.AGNIHOTRI
AND
THE HON'BLE DR.JUSTICE P.DEVADASS

Writ Petition No.1456 of 2016
and

W.M.P.No.1216 of 2016

1. K.Lakshmikant
2. K.Saroja Ammal ... Petitioners

Vs.

1. The District Collector,
Thiruvallur District.
2. The Tahsildar,
Tiruttani. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings in Na.Ka.22570/2015/No.2 dated 14.9.2015 passed by the first respondent herein and quash the same and further direct the respondents to allow the petitioners to do cultivation in Survey No.226, Thiruvallur District, Tiruttani Taluk, Sivada Mathura Venkadapuram Village.

For Petitioners : Mr.K.Vasudevan

For Respondents : Mr.N.Sakthivel,
Government Advocate.

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O R D E R
(ORDER OF THE COURT WAS MADE BY DR.P.DEVADASS, J.)

The writ petitioners seek issuance of Writ of Certiorarified Mandamus to quash the order dated 14.09.2015, the District Collector, Thiruvallur District (first respondent) directing the Revenue Officials to remove the encroachment in Survey No.226 in Venkadapuram Village in Tiruttani Taluk in Thiruvallur District.

2. In Venkadapuram, land measuring 3.77.0 Hectares comprised in Survey No.226 is classified as 'Kasam Poramboke'. It is a Government land. First petitioner, who is mother of the second petitioner is in possession of this land.

3. The first petitioner alleges that the said land has been in the possession his late father and his predecessors for about 65 years making paddy cultivation. Now, he has raised paddy crops. 'B' Memos also have been issued. However, disregarding their long and continued possession, the District Collector, Thiruvallur passed the impugned order to remove them from the land without following any procedure of law. Under these circumstances, this writ petition has been filed by them seeking the relief stated at the outset.

4. The learned counsel for the petitioners contended that the said land is in the possession and enjoyment of the petitioners uninterruptedly for a long period. They cannot be thrown out just like that. The paddy crops cultivated by them cannot be taken away by others. Thus, the impugned order is against law.

5. The learned Government Advocate contended that vast extent of land has been encroached by the petitioners. And giving them opportunity, action has been taken under the Tamil Nadu Land Encroachment Act, 1905. The present writ petition is an attempt to squat on the public land and thwart the lawful action taken by the Government.

6. We have anxiously considered the rival submissions, perused the impugned order dated 14.9.2015 and the materials on record.

7. Admittedly, 3.77.0 Hectares of land is in the possession of the petitioners. Admittedly, they have no title deed. Indisputably, it is 'Kasam Poramboke'. It is Government property. Issuance of 'B' Memo will not give any title to anyone to such Government land, although, according to the petitioners, they have stated to be in possession of the land for a considerable period. No one can be allowed to encroach, squat on public land. Their possession cannot be legal possession.

8. In the instant case, under Section 7 of the Tamil Nadu Land Encroachment Act, 1905, Tahsildar, Tiruttani had issued notice dated 11.2.2015 to the first petitioner to show cause as to his encroachment of the Government land. Thereafter, further action was taken under Section 6 of the Act to evict the encroachers from the said Government Poramboke land. First

petitioner had appealed to the District Collector, Thiruvallur under Section 10(1) of the Act.

9. Enquiry was conducted by the Appellate Authority. The Revenue Officials ranging from Village Administrative Officer (VAO) to Tahsildar and the President of the Venkadapuram Village and others have participated. 'A' Register and other Revenue records were also produced and in the circumstances, the District Collector, Thiruvallur ordered the second respondent, namely, Tahsildar, Tiruttani, to remove the encroachers from the Government Poramboke land. This order of the District Collector, Thiruvallur is perfectly in order. It cannot be faulted.

10. On any account, no protection would be given to the petitioners, who are encroachers of Government land. Without any authority of law, they were stated to have cultivated paddy crops in the said Government land and they wish to have premium for their wrong doing. They cannot be allowed to reap any benefit out of illegal encroachment of Government Poramboke land. There shall be no unrich enrichment.

11. In the light of the above, this writ petition is dismissed. The respondents, after taking possession of the said property comprised in Survey No.226 situate in Venkadapuram in Tiruttani Taluk in Thiruvallur District will ensure that the standing crops get properly ripened and after harvest, the grains can be used for the purpose of distribution to the needy. Costs made easy. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Svn
To

Sub Assistant Registrar

1. The District Collector,
Thiruvallur District,
Thiruvallur.
2. The Tahsildar,
Tiruttani.

+lcc to Mr.K.Vasudevan, Advocate, S.R.No.2842
+lcc to the Government Pleader, S.R.No.2729

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RV(CO) CA(09/02/2016)