

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.06.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Writ Petition No.17288 of 2016
and
W.M.P.No.14772 of 2016

M.Muthusamy

...Petitioner

Vs.

- 1.State of Tamil Nadu,
rep. by the District Collector,
Coimbatore District,
Coimbatore - 641 018.
- 2.The District Forest Officer,
Coimbatore - 641 002.
- 3.The Tahsildar,
Coimbatore South Taluk,
Coimbatore - 641 018. ...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, forbearing the respondents, their men, agents, servants or any officers, claiming through any one of them, from in any manner, interfering with the peaceful possession and enjoyment of the petitioner over the land bearing Survey No.389/15, to an extent of 15 cents in Thenkarai Village, presently in Perur Taluk in Coimbatore District, except otherwise than in accordance with law.

For Petitioner : Mr.S.Subbiah

For Respondents : Mr.P.S.Sivashanmugasundaram
Special Government Pleader
(For R1 & R3)

O R D E R

(Order of the Court was made by HULUVADI G. RAMESH,J.)

This writ petition is filed praying to issue a writ of Mandamus, forbearing the respondents, their men, agents, servants or any officers, claiming through any one of them, from in any manner, interfering with the peaceful possession and enjoyment of the petitioner over the land bearing Survey No.389/15, to an extent of 15 cents in Thenkarai Village, presently in Perur Taluk in Coimbatore District, except otherwise than in accordance with law.

2.Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents 1 and 3.

3.The claim of the petitioner is that the petitioner is in possession of the property for several years. However, for the purpose of putting up construction of quarters for the Forest Officers, steps have been taken to dispossess the petitioner, even though the petitioner has submitted a representation for issuance of patta in his favour in recognition of his possession. Since no action has been taken on the said representation, the present writ petition has been filed before this Court.

4.According to the learned Special Government Pleader appearing for the respondents 1 and 3, there is a decree in favour of the petitioner in O.S.No.1838 of 2005 dated 23.11.2007 on the file of the District Munsif Court, Coimbatore by way of permanent injunction restraining the respondent authorities from interfering with the petitioner's peaceful possession and enjoyment of the property. Since there is a threat by the respondent authorities, the petitioner approached this Court and this Court passed an interim order to maintain status quo. In the case in hand, the main contention of the respondents is that since the petitioner is in possession of the land which is allotted for putting up construction of quarters for the Forest Officers, there is a difficulty for ingress and egress to reach the place and therefore steps are being taken by the respondents to remove the encroachment.

5.Considering the facts and circumstances of the case, we are of the view that once a decree has been obtained by the petitioner by way of permanent injunction, then necessarily, the respondent authorities cannot try to take away the right created to the petitioner by way of judgment/decreed of the Court and they must necessarily approach the Court of law and get appropriate orders expressing their difficulty or they may have negotiation with the petitioner or they may provide alternative land to protect the interest of the petitioner.

6.In such view of the matter, it is for the respondent authorities to resort to the remedy either by way of negotiation with the petitioner or to provide alternative land if the petitioner is willing, or to approach the Court and obtain necessary orders. But the respondent authorities cannot go in for coercive methods to remove the petitioner from the possession of the property which has been protected by the judgment/decreed of permanent injunction by the Civil Court.

7.In the above circumstances, this writ petition is disposed of directing the respondent authorities to get the matter redressed, as noted above, in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

cse

To

1.The District Collector,
Coimbatore District,
Coimbatore - 641 018.

2.The District Forest Officer,
Coimbatore - 641 002.

3.The Tahsildar,
Coimbatore South Taluk,
Coimbatore - 641 018.

+1cc to M/s. S. Subbiah, Advocate, S.R.No.31721
+1cc to the Government Pleader, S.R.No.31542

SNS(CO)

EU(12/07/2016)

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