

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2016

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN

W.P.No.28553 of 2014
and
M.P.No.1 of 2014

Rukma Devi

... Petitioner

Vs.

1. State of Tamil Nadu,
represented by its Principal Secretary,
Revenue Department,
Fort St. George, Chennai-600 009.
2. The District Collector,
Thiruvallur District,
Thiruvallur-602 001.
3. The Revenue Divisional Officer,
Ponneri Revenue Division,
Ponneri-601 204.
4. The Tahsildar,
Ponneri Taluk,
Ponneri-601 204.
5. The Block Development Officer,
Sholavaram Panchayat Union,
Thiruvallur District.
6. The Village Panchayat President,
Thirunilai Panchayat,
Sholavaram Panchayat Union,
Thiruvallur District.

... Respondents

The writ petition has been filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, forbearing the respondents, their men, agents, servants and subordinates, from summarily and forcibly evicting the petitioner from her lands, i.e., hectares 0.15.5 ares (38 cents), in S.No.56/1, Kodipallam village, Ponneri Taluk, Thiruvallur District or damaging the petitioner's compound wall, house, shed, crops and standing trees thereon, except by due process of law and natural justice, including the statutory

provisions of the Land Encroachment Act, 1905, pending disposal, on merits of the petitioner's representation, dated 14.9.2014.

For Petitioner : Mr.N.R.Anantha Ramakrishnan
For Respondents : Mr.K.Dhananjayen,
Special Government Pleader
for RR1 to 4
No appearance for R-5
Mr.P.Sanjai Gandhi for R-6

ORDER

Heard.

2. This writ petition has been filed by the petitioner, praying that this Court may be pleased to issue a Writ of Mandamus, forbearing the respondents from summarily and forcibly evicting the petitioner from her lands, in S.No.56/1, Kodipallam village, Ponneri Taluk, Thiruvallur District or damaging the petitioner's compound wall, house, shed, crops and standing trees thereon, except by due process of law and natural justice, including the statutory provisions of the Land Encroachment Act, 1905, pending disposal of the petitioner's representation, dated 14.9.2014.

3. The petitioner has stated that she has been in occupation of the land in S.No.56/1, Kodipallam village, Ponneri Taluk, Thiruvallur District, from the year, 1984. It had been stated that the said land is classified as "Meikkal Poramboke", in the revenue records. It had been further stated that the petitioner has been paying the B-Memo charges, relating to the said land, for a number of years. The petitioner had also stated that there is a public road running through the said land. It had been further stated that a number of persons, similarly situated, have been permitted to occupy the "Meikkal Poramboke", in Kodipallam village, Ponneri Taluk, Thiruvallur District. Even though the petitioner had made several representations for the assignment of the said land in her favour, the respondents have not acted on the same. Instead, the sixth respondent had issued a notice, dated 27.10.2014, to the son of the petitioner to remove the compound wall constructed in the land in question, as though he is in occupation of the said land. In such circumstances, the petitioner has preferred the present writ petition, before this Court, under Article 226 of the Constitution of India.

4. The main contention of the learned counsel appearing on behalf of the petitioner is that the sixth respondent does not have the power or the authority to issue the notice, dated 27.10.2014. Further, no notice had been issued to the

petitioner, who is in actual occupation of the property in question, as per the provisions of the Tamil Nadu Land Encroachment Act, 1905.

5. The learned counsels appearing on behalf of the respondents had submitted that the petitioner is in unauthorized occupation of the land, comprised in S.No.56/1, Kodipallam village, Ponneri Taluk, Thiruvallur District. Hence, B-Memos had been issued to the petitioner. It had been further stated that the land in question is classified as "Meikkal Poramboke", in the revenue records. The sixth respondent had issued notice, dated 27.10.2014, asking the petitioner to remove the compound wall from the land in question. The learned counsels had further submitted that the said land in question is needed for public purpose. As the petitioner is in unauthorised occupation of the said land, necessary steps would be taken to evict her from the said land, by following the provisions of the Tamil Nadu Land Encroachment Act, 1905. It had been further stated that the petitioner cannot claim any vested right in respect of the land in question, as it is classified as "Meikkal Poramboke", in the revenue records.

6. In view of the submissions made by the learned counsel appearing on behalf of the petitioner, as well as the respondents and on a perusal of the records available, it is noted that the petitioner has been in occupation of the land in S.No.56/1, in Kodipallam village, Ponneri Taluk, Thiruvallur District, for a number of years. It is also noted that the land in question is classified, as "Meikkal Poramboke", in the revenue records of the State Government.

7. In such circumstances, this Court is of the view that it would be open to the authority concerned to ask the petitioner to vacate the land in question, by following the procedures prescribed, under the provisions of the Tamil Nadu Land Encroachment Act, 1905, if the authority concerned deems it fit to do so. However, the petitioner shall not be evicted by the respondents, from the land in question, forcibly, without following the procedures established by law, as pointed out above. The writ petition stands ordered with the above observations. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

vvk

To

1. The Principal Secretary,
State of Tamil Nadu,
Revenue Department,
Fort St. George,
Chennai-600 009.
2. The District Collector,
Thiruvallur District,
Thiruvallur-602 001.
3. The Revenue Divisional Officer,
Ponneri Revenue Division,
Ponneri-601 204.
4. The Tahsildar,
Ponneri Taluk,
Ponneri-601 204.
5. The Block Development Officer,
Sholavaram Panchayat Union,
Thiruvallur District.
6. The Village Panchayat President,
Thirunilai Panchayat,
Sholavaram Panchayat Union,
Thiruvallur District.

+1cc to Mr.N.R.Anantha Ramakrishnan, Advocate, S.R.No.48744
+1cc to the Government Pleader, S.R.No.49155

W.P.No.28553 of 2014

RK(CO)
CA(15/09/2016)

WEB COPY