

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2016

CORAM

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

Writ Petition No.23537 of 2016
and

WMP.No.20158 of 2016

D.Mohan Raj

[Petitioner]

Vs.

1 The District Collector
Coimbatore District Coimbatore

2 The Thasildar
Perur Taluk
Coimbatore 641 010

3 Revenue Inspector
Perur Firkah, Perur Taluk
Coimbatore 641 010

[Respondents]

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records culminated in the Impugned Notice in Ref. No. Na.Ka.2756/2016/A6 dated 27.6.2016 on the file of the respondent No.2 read with Notice in Ref. No.Na Ka. 2756/2016/A6 dated 1.6.2016 but signed on 7.6.2015 on the file of Respondent No.3 and quash the same and consequently direct the respondents not to take any action against the lands in S.No.22/1 measuring 8 Ares and in S.No.22/3 measuring 5.05 Ares in Sundakkamuthur Village Perur Taluk and Coimbatore District.

For Petitioner : Mr.S.R.Sundaram for
Mr.V.V.Kathiresan

For Respondents : Mr.P.S.Sivashanmugan sundaram,
Spl.Govt.Pleader

O R D E R

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

Mr.P.S.Sivashanmuga Sundaram, learned Special Government Pleader takes notice for the respondents.

2. This Writ Petition is filed challenging the Impugned Notice dated 27.6.2016 on the file of the 2nd respondent read with Notice dated 1.6.2016 but signed on 7.6.2015 on the file of 3rd respondent and consequently direct the respondents not to take any action against the lands in S.No.22/1 measuring 8 Ares and in S.No.22/3 measuring 5.05 Ares in Sundakkamuthur Village, Perur Taluk and Coimbatore District.

3. It appears that the petitioner is the owner of the property situated at Old Survey Number 22/2, New Survey No.22/2B, measuring an extent of 3 acres 92 cents in No.46, Sundakkamuthur Village, Perur Taluk and Coimbatore District and pursuant to the purchase made, he is in possession and enjoyment of the same without any interference till date. It is stated by the petitioner that though the property was classified as agricultural Zone at the time of purchase, later, the same was converted into industrial Zone, pursuant to the application made by him for such a change, through the letter dated 9.4.2003. It appears that in the meantime, one Mr.Murugesan, a retired Village Administrative Officer, who is the owner of the adjacent land, tried to interfere with the petitioner's property in order to grab the property of the petitioner. The 2nd respondent also informed the petitioner that they are going to measure the property. It appears that though the petitioner produced all the records for his perusal, due to the influence of the said Murugesan, the 2nd respondent had not considered the representation of the petitioner and acted against the principles of natural justice. According to the petitioner, in order to prevent the said Murugesan from misusing his powers with the help of the respondents, a civil suit was also filed and the same is pending. In the meantime, a notice dated 01.06.2016, signed on 07.06.2015, was issued by the 3rd respondent under Section 7 of Act III of Chennai, 1905, to show cause as to why he should not be evicted and directed the petitioner to give written explanation on or before 10.06.2016. The petitioner is yet to receive orders from the respondent for the reply dated 10.06.2016 given to the said notice. However, it appears that another notice dated 27.06.2016 under Section 6 of Act III of 1905 came to be issued directing the petitioner to vacate the subject land in 7 days. Hence, the petitioner is before this Court.

4. The learned Counsel appearing for the Petitioner submits that the petitioner's predecessor enjoyed the property in question and the petitioner being the successor is also enjoying the property in question. When that being the position, without considering the reply dated 10.06.2016 submitted by the petitioner to the earlier notice dated 01.06.2016 and without passing any order on the same, issuance of subsequent notice dated 27.06.2016 by the 2nd respondent is in violation of principles of natural justice. It is his contention that the land in question cannot be taken away without following the due process of law.

5. On the other hand, the learned Special Government Pleader appearing for the respondents would submit that the land in question is a Kuttai Poramboke land and hence, neither the predecessor nor the petitioner had any right over the property in question. He would further submit that there is no proof that the petitioner had got any right over the property. Therefore, according to him action sought to be initiated by the respondent authority is in accordance with law.

6. We have considered the submissions made by the learned counsel on either side and perused the materials available on record.

7. Since already a notice 01.06.2016, said to have been issued under Section 7 of Act III of Chennai 1905 to the petitioner, which reached him on 07.06.2016 and a reply dated 10.06.2016 was also stated to be submitted by the petitioner, it is for the respondent authority to consider the said reply and to take a decision in accordance with the provisions of law, within one month from today. It is made clear that till such a decision is taken, the respondents are directed to maintain status-quo.

8. The Writ Petition is disposed of with the above direction. No costs. Consequently, connected WMP is closed.
rg

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1 The District Collector, Coimbatore District Coimbatore

2 The Thasildar, Perur Taluk, Coimbatore 641 010

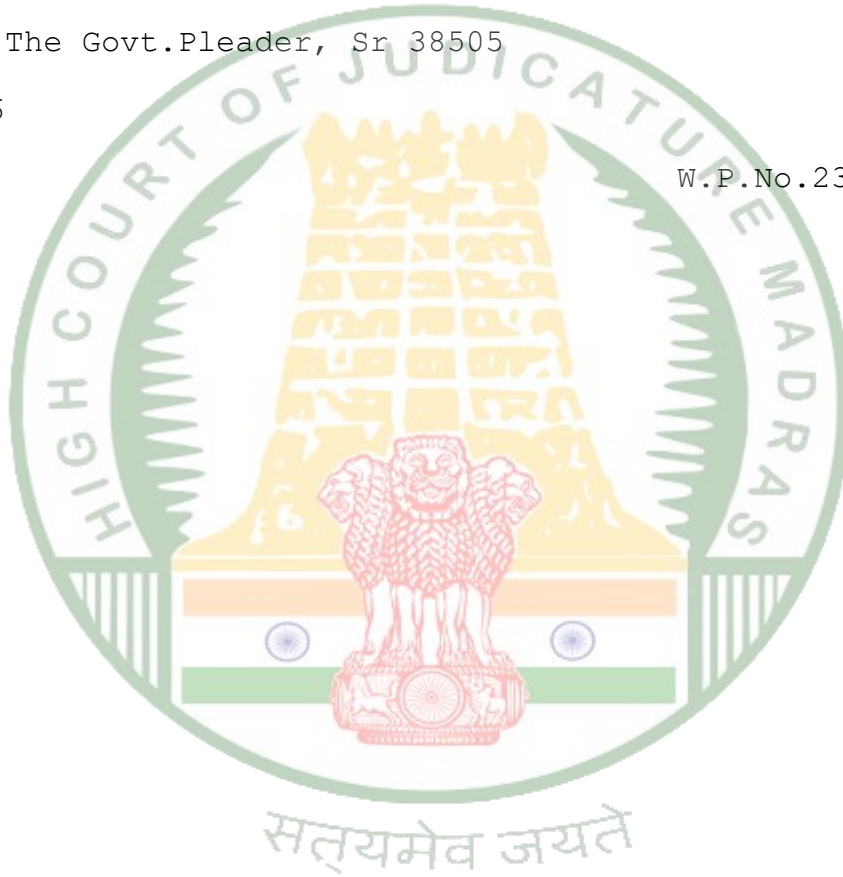
3 Revenue Inspector, Perur Firkah, Perur Taluk
Coimbatore 641 010.

+ 1 cc to Mr.V.V.Kathiresan, Advocate Sr 38269

+ 1 cc to The Govt.Pleader, Sr 38505

KR/14/7/16

W.P.No.23537 of 2016



WEB COPY