

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2016

CORAM

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

Writ Petition No.25059 of 2016
and
WMP.Nos.21479 and 21480 of 2016

P.Selvi

...Petitioner

Vs.

1.The Revenue Tahsildar,
Vridhachalam Taluk,
Vridhachalam,
Cuddalore District.

2.The Revenue Inspector,
Oomangalam Firka,
Cuddalore District.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned notice dated 03.06.2016 issued by the first respondent to the petitioner in respect of the lands in S.Nos.162/2 and 162/3 classified as Punja-Tahrisu and Nanja-Tharisu in Vadakku Vellur Revenue Village, Vridhachalam Taluk and Cuddalore District and quash the same and consequently forbearing the respondents and any other officials tracing power from anyway or in any manner interfering or disturbing the petitioner and her family members' peaceful possession and enjoyment over the lands in S.Nos.156/5B, 159/2, 160/5, 161/3A1, 161/3A3, 138/1A, 138/1C, 256/2A1, 256/2A3, 142/2, 155/1, 155/3 and 161/4 in Vadakku Vellur Revenue Village, Vridhachalam Taluk and Cuddalore District.

For Petitioner : Mr.R.Neelakandan for Mr.A.Gopinath

For R1 & R2 : Mrs.A.Sri Jayanthi, SGP

ORDER

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

Mrs.A.Srijayanthi, learned Special Government Pleader accepts notice on behalf of respondents 1 and 2. With the consent of both the parties, the writ petition is taken up for final disposal at the stage of admission itself.

2. The petitioner has filed this writ petition seeking to quash the impugned notice dated 03.06.2016 issued by the first respondent in respect of the lands in S.Nos.162/2 and 162/3 classified as Punja-Tharisu and Nanja-Tharisu in Vadakku Vellur Revenue Village, Vridhachalam Taluk, Cuddalore District and consequently forbearing the respondents and any other officials from anyway or in any manner interfering or disturbing the petitioner and her family members' peaceful possession and enjoyment over the lands in S.Nos.156/5B, 159/2, 160/5, 161/3A1, 161/3A3, 138/1A, 138/1C, 256/2A1, 256/2A3, 142/2, 155/1, 155/3 and 161/4 in Vadakku Vellur Revenue Village, Vridhachalam Taluk and Cuddalore District.

3. The case of the petitioner is that her family owns agricultural lands comprised in S.Nos.156/5B, 159/2, 160/5, 161/3A1, 161/3A3, 138/1A, 138/1C, 256/2A1 and 256/2A3 in Vadakku Vellur Revenue Village in Oomangalam Firka, Vridhachalam Taluk and Cuddalore District covered in Patta No.731 issued by the first respondent in the name of the petitioner's sons. Similarly, her family owns another set of lands in S.Nos.142/2, 155/1, 155/3 and 161/4 in the same village adjacent to the above lands covered in Patta No.738. In between those two sets of lands, there are small extent of lands in S.Nos.162/2 and 162/3 classified as Punja-Tharisu and Nanja-Tharisu respectively and the same are under the possession of the petitioner. The petitioner applied for patta in respect of the said lands, but the same is yet to be considered. While so, for usage of Neyveli Lignite Corporation (NLC), the petitioner family has given their lands in S.Nos.138/1A and 256/2A2 for acquisition. Without considering the same, the respondents under the instruction of NLC, have attempted to disturb the possession of the petitioner family. The first respondent has also issued a notice dated 03.06.2016 under Section 6 of the Tamil Nadu Land Encroachment Act, calling upon the petitioner to vacate the lands in S.Nos.162/2 and 162/3. Aggrieved over the same, the petitioner is before this Court with the present writ petition for the above stated relief.

4. Learned counsel for the petitioner submits that without issuing notice under Section 7 of the Act, the first respondent has issued the impugned notice under Section 6 of the Act, which is improper and contrary to the provisions of the Act and is hence liable to be quashed.

5. Per contra, learned Special Government Pleader submits that as against the impugned notice dated 03.06.2016 issued by the first respondent, appellate remedy is available to the petitioner under Section 10-A of the Tamil Nadu Land Encroachment Act and the appeal lies before the District Collector.

6. Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents and also perused the available materials.

7. In view of the alternate remedy available to the petitioner, this Writ Petition is disposed of, with liberty to the petitioner to prefer an appeal against the impugned notice dated 03.06.2016 issued by the first respondent and produce all the relevant materials within one month from the date of receipt of a copy of this order. On preferring such appeal and production of the materials, the District Collector is directed to consider the same and take a decision in accordance with law, after providing an opportunity of personal hearing to the petitioner within a period of two months thereafter. Till such time, status quo as on date to be maintained. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS VI)

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Sub Assistant Registrar

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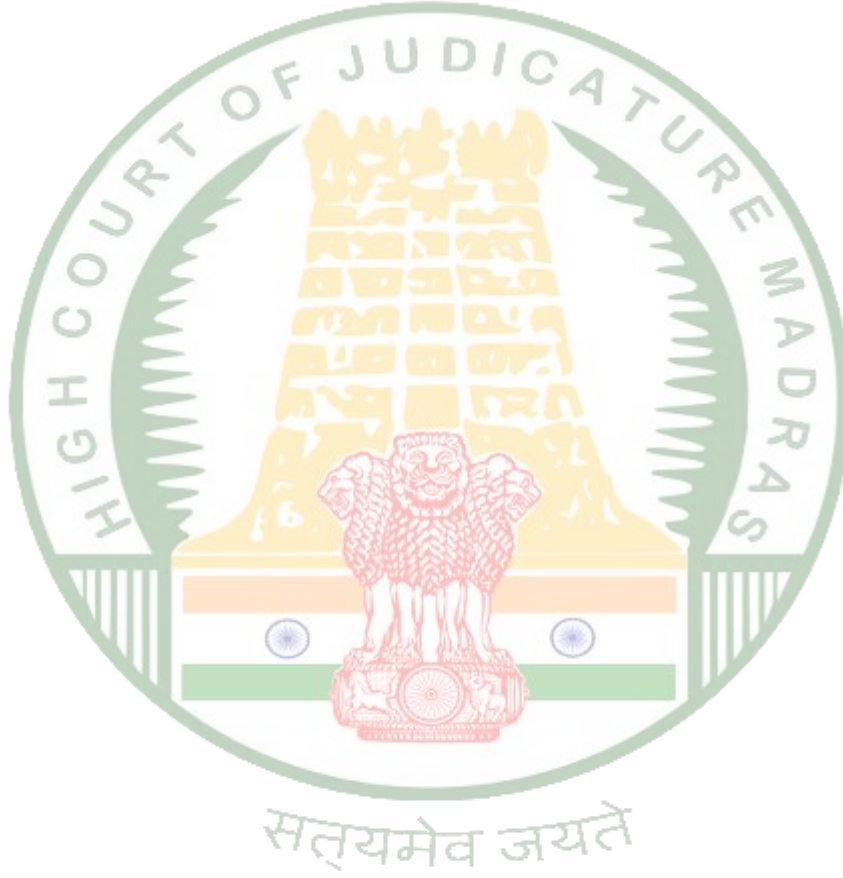
1.The Revenue Tahsildar,
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Vridhachalam,
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2.The Revenue Inspector,
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+lcc to Mr.A.Gopinath, Advocate SR.40878
+lcc to the Government Pleader Sr.41299

W.P.No.25059 of 2016

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srg 29/07/2016



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