

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.08.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Writ Petition No.25721 of 2016

and WMP.No.22070 of 2016

T.J.Desamuthu

.. Petitioner

Vs.

1. The District Collector,
Tiruvallur District,
Tiruvallur.
 2. The Revenue Divisional Officer,
Ponneri Revenue Division,
Ponneri - 601 204,
Tiruvallur District.
 3. The Assistant Executive Engineer,
Public Works Department,
Water Resources Organisation,
Araniar Basin Sub Division,
Ponneri - 601 204,
Tiruvallur District.
 4. The Tahsildar,
Ponneri Taluk Office,
Ponneri - 601 204
Tiruvallur District.
 5. The Revenue Inspector,
Ponneri Firka,
O/o.Ponneri Taluk Office,
Ponneri, Tiruvallur District.
- .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to direct the first respondent to consider the representation of the petitioner dated 18.07.2016 before taking any forcible eviction proceedings in respect of the lands, comprised in Survey No.263/1, measuring an extent of 2.34.0 Hectares and Survey No.268/2, measuring an

extent of 2.30.5 totally 4.64.5 Hectares (i.e.) Acres 11.47 cents situated at No.52, Eliambedu-II Village, Pallambakkam Hamlet Village, Ponneri Taluk, Tiruvallur District without following due process of law.

For Petitioner : Mr.R.Munuswamy

For Respondents : Mr. P.S.Sivashanmugasundaram,
Special Govt Pleader

O R D E R

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

The prayer made in the writ petition is to issue a writ of Mandamus, directing the first respondent to consider the representation of the petitioner dated 18.07.2016, before taking any forcible eviction proceedings in respect of the lands, comprised in Survey No.263/1, measuring an extent of 2.34.0 Hectares and Survey No.268/2, measuring an extent of 2.30.5 totally 4.64.5 Hectares (i.e.) Acres 11.47 cents situated at No.52, Eliambedu-II Village, Pallambakkam Hamlet Village, Ponneri Taluk, Tiruvallur District without following due process of law.

2. According to the petitioner, originally the lands in Survey No.263/1, measuring an extent of 2.34.0 Hectares and Survey No.268/2, measuring an extent of 2.30.5 totally 4.64.5 Hectares (i.e.) Acres 11.47 cents situated at No.52, Eliambedu-II Village, Pallambakkam Hamlet Village, Ponneri Taluk, Tiruvallur District have been classified as patta lands in the name of the petitioner's predecessors. However, the same were wrongly classified as Government lands in the revenue records. The petitioner and his brothers have been living in the said lands and they have been cultivating all the lands for the past 35 years. While so, in the year 1991, the fifth respondent issued a notice under Section 5 of the Tamil Nadu Land Encroachment Act, 1905, (hereinafter referred to as 'Act') stating that the lands in question are Government poramboke lands. Hence, the petitioner and his brothers made representations to the authorities concerned requesting to re-classify the lands as patta lands. On receipt of the same, the Assistant Settlement officer, Tiruvannamalai, sent a communication dated 20.09.1996, instructing the petitioner to file an appeal for necessary reclassification.

3. Now, the grievance of the petitioner is that on 17.07.2016, few persons claiming them as revenue officials came to the lands and informed that they are going to take possession of the lands and asked the petitioner and his family members to remove all the standing paddy crops. Immediately, the petitioner

made a detailed representation dated 18.07.2016 to the respondents and the same is pending. Apprehending the eviction proceedings, the petitioner is before this Court with the present writ petition.

4. Learned counsel for the petitioner submits that the respondents are trying to take possession of the lands in question from the petitioner and his family members without following due procedure as contemplated under the Act.

5. Per contra, learned Special Government Pleader submits that notice has been issued to the petitioner to remove the encroachment, stating that the lands in question are Government poramboke lands. Despite the undertaking given by the petitioner that if the lands occupied by him are encroachment, he would remove the same, the petitioner is now resisting the removal of encroachment. He further submits that despite removal of encroachment, the occupation was revived by the petitioner by making encroachment again and again and action has been taken against the petitioner on several times.

6. Considering the submissions made on either side, we are of the view that it is open to the respondents to take action with regard to removal of encroachment in the lands in question in accordance with law. If the encroachment made by the petitioner is in a water catchment area or is belonging to the Public Works Department, the petitioner would be given sufficient time i.e., 3 months to remove the encroachment on his own, failing which, in order to maintain ecological balance, the respondents shall take the further course of action for removal of such encroachment, including proper action against the petitioner, as per law.

7. The writ petition is disposed of with the above direction. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS VII)

//True Copy//

Sub Assistant Registrar

To

1. The District Collector,
Tiruvallur District, Tiruvallur.
2. The Revenue Divisional Officer,
Ponneri Revenue Division,
Ponneri - 601 204, Tiruvallur District.
3. The Assistant Executive Engineer,
Public Works Department,
Water Resources Organisation,
Aranar Basin Sub Division,
Ponneri - 601 204, Tiruvallur District.
4. The Tahsildar,
Ponneri Taluk Office,
Ponneri - 601 204
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5. The Revenue Inspector,
Ponneri Firka, O/o.Ponneri Taluk Office,
Ponneri, Tiruvallur District.

+1cc to Mr.R.Munuswamy, Advocate Sr.46884
+1cc to the Government Pleader sr.46709

W.P.No.25721 of 2016

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srg 14/09/2016

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