

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:14.11.2016

CORAM

THE HON'BLE MR. JUSTICE R.SURESH KUMAR

W.P.No.16257 of 2010

and

M.P.No.1 of 2010

T.Thirumathi

..Petitioner

/vs/

1.The District Collector,
Coimbatore District,
Coimbatore.

2.The Assistant Director of Town Panchayats,
Collectorate, Coimbatore.

3.Executive Officer,
Kottur Town Panchayat,
Kottur, Pollachi Taluk,
Coimbatore District.

4.The Chairman,
Kottur Town Panchayat,
Kottur, Pollachi Taluk,
Coimbatore District.

..Respondents

Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Mandamus forbearing the respondents herein from in any manner interfering with the possession of the petitioner on the land in No.17/36, Thiruvallur Colony, Kottur, Malayandipattinam, Kottur, Pollachi Taluk, Coimbatore District without following the due process of law under any statute in force.

For Petitioner
For Respondent
1 & 2

:M/s.P.Srinivas
:Mr.V.Jayaprakash Narayanan,
Additional Government Pleader

ORDER

The prayer in the writ petition is for a Writ of Mandamus forbearing the respondents herein from in any manner interfering with the possession of the petitioner on the land in No.17/36, Thiruvallur Colony, Kottur, Malayandipattinam, Kottur, Pollachi Taluk, Coimbatore District without following the due process of law.

2. The case of the petitioner is that in the land at No.17/36 at the above said address initially belonged to the petitioner's mother and subsequently, the petitioner had been in possession and enjoyment. According to the petitioner, they had put up a small hut out of mud and had been residing there. Since the petitioner's mother died on 19.11.2007, she left from the place for searching a job. During that time, the 3rd and 4th respondents have taken the said land for the construction of Anganvadi Building. After coming to know of the same, when the petitioner approached the 3rd and 4th respondent they gave an answer stating that the land belonging to the Government and for the public purpose of Anganvadi Building the land was taken. Therefore, the petitioner has come out with the present writ petition. The petitioner had also submitted a representation on 03.05.2010 to the second respondent explaining all these position and requested him to consider her pathetic condition as she had no other piece of land in that locality to put up structure for residence.

3. Heard both sides.

4. The Learned Additional Government Pleader appearing for the respondent on instructions submitted that there is no such number corresponding with No.17/36 in that locality as stated by the petitioner. There is no tax levied either on the petitioner or her mother, at any point of time by the 3rd respondent/Panchayat. In the said land, a foundation was laid and only at that point of time it was objected by the petitioner and she had come out with the present writ petition. The Learned Additional Government Pleader had also produced Photo Copy of foundation that has been made by the 3rd respondent for Anganvadi Building in the said land. Since, the land is a Natham Poramboke land category and belonging to the Government/3rd respondent, the petitioner cannot have any lawful right over the said land. The petitioner has no vested right to claim the land as the same is very much required for the construction of Anganvadi Building. Therefore, the writ petition deserves to be dismissed and hence he prays for dismissal of the same.

5. However, the learned counsel appearing for the

petitioner would contend that though the petitioner with her mother had been residing in the said land and after the death of the petitioner's mother since the petitioner had to be out of the place seeking for a job, the 3rd respondent/Panchayat had demolished the small hut put up by the petitioner and taken the land where foundation had been laid and also small construction was put up by the 3rd respondent for the purpose of Anganvadi. The contention made by the petitioner is that the project itself has not been undertaken and the same has been at the initial stage only.

6. The learned counsel for the petitioner would further contend that the petitioner had submitted a detailed representation to the 2nd respondent on 03.05.2010 where she had requested to hand over the land for the dwelling purpose of the petitioner as the same is Natham Poramboke. Since the petitioner and prior to her mother had been in possession for long years she is entitled for housing patta under the Natham survey scheme. Therefore, the learned counsel for the petitioner request for direction to the respondents to consider the representation of the petitioner dated 03.05.2010 and to pass order granting patta to the petitioner.

7. Heard the learned counsel appearing for both sides.

8. This Court after hearing the rival claim made by the respective parties with regard to right and possession of the said land, is of the view that the same cannot be decided at this stage and the writ petition can be disposed of by giving a direction to the respondents, especially, the respondents 1 and 2 to consider the representation dated 03.05.2010 submitted by the petitioner to the second respondent, on merits and in accordance with law after taking into account the possession of the petitioner in the said land prior to the death of her mother by taking a pragmatic view and pass suitable orders with regard to the claim of the petitioner in the Natham Poramboke land, within a period of eight weeks from the date of receipt of a copy of this order.

9. In the result, the writ petition is disposed of with the above said direction. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The District Collector,
Coimbatore District,
Coimbatore.

2.The Assistant Director of Town Panchayats,
Collectorate, Coimbatore.

3.Executive Officer,
Kottur Town Panchayat,
Kottur, Pollachi Taluk,
Coimbatore District.

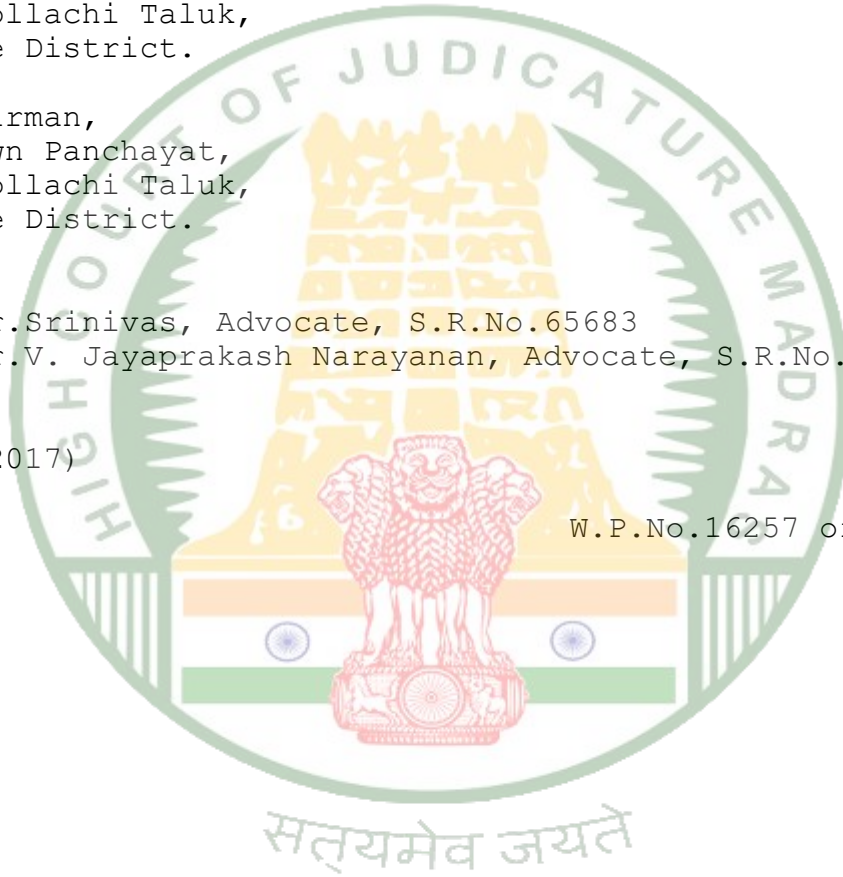
4.The Chairman,
Kottur Town Panchayat,
Kottur, Pollachi Taluk,
Coimbatore District.

+1cc to Mr.Srinivas, Advocate, S.R.No.65683

+1cc to Mr.V. Jayaprakash Narayanan, Advocate, S.R.No.66088

ks (CO)
md(18/01/2017)

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