

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2016

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.28786 of 2016

And

W.M.P.No.24828 of 2016

Mr.Sunny Thomas

... Petitioner

Vs.

1 The Collector,
Nilgiris District,
Nilgiris.

2 The Revenue Divisional Officer,
Gudalur,
Nilgiris District.

3 The Tahsildhar,
Gudalur,
Nilgiris District.

4 Revenue Inspector,
Gudalur,
Nilgiris District.

5 Village Administrative Officer,
Gudalur,
Nilgiris District.

6 The Deputy Superintendent of Police,
Gudalur,
Nilgiris District.

7 The Inspector of Police,
Gudalur Town Police Station,
Gudalur,
Nilgiris District.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus forbearing the respondents from a manner interfering with the petitioners peaceful possession and enjoyment of the following properties:

a) Extent of 1.39 acre, 0.25 acre land and 0.10 acre (private passage) in R.S. No.1061/1 (part) in R.S.No.1061/1A1 owned by petitioner Sunny Thomas and his father K.J.Thomas

b) Extent of 0.96 acre and 1.96 acre in R.S. No.1061/3 owned by petitioner Sunny Thomas and his brother Vinny Thomas

as per patta of Gudalur Village, Gudalur Taluk, Nilgiris District.

For Petitioner : Mr.M.Venkatachalapathy
Senior Counsel
for Mr.M.Sriram

For Respondents: Mr.A.N.Thambidurai
Special Government Pleader

O R D E R

By consent, the writ petition is taken up for final disposal.

2.The petitioner claims that his father K.J.Thomas had purchased the property admeasuring to an extent of 3.44 acres in R.S.No.1061/1 part, Gudalur Village, Gudalur Taluk, Nilgiris District through a registered sale deed bearing document no.1144/1988, dated 01.09.1988 registered on the file of the Office of the Sub Registrar, Gudalur and it was under cultivation by his father.

3.The petitioner would further state that his mother has also purchased landed property admeasuring to an extent of 1.21.5 HA in R.S.No.1061/3, Gudalur Village, through a registered sale deed bearing document no.161/1992, dated 17.02.1992 registered on the file of the Office of the Sub Registrar, Gudalur and his parents were issued with patta in respect of the above said properties.

4.It is also stated by the petitioner that his father, through a registered settlement deed bearing document no.961/2011 dated 12.10.2011 registered on the file of the Office of the Sub Registrar, Gudalur has settled an extent of 25 cents in R.S.No.1061/1 part in Gudalur Village in his favour and both his father and mother also jointly executed a registered settlement deed bearing document no.491/2015 dated 23.04.2015 and has settled the properties admeasuring to an extent of 1.39 acre in R.S.No.1061/1 and 0.96 acre in 1061/3 in his favour and thus, he has become the owner of the property totalling to an extent of 1.39 acres, 0.25 acres and 0.96 acres and claims to be in possession and enjoyment of the same.

5.It is also stated by the petitioner that during the year 1990, after assignment patta was issued, his brother was in enjoyment of some portion of the landed property in S.No.1061/4 in Gudalur Village and the third respondent has proceeded under the Tamil Nadu Land Encroachment Act, 1905 and issued a notice and also passed an order and challenging the legality of the order, appeal has been preferred and it is pending before the Revenue Divisional Officer, Gudalur. The grievance expressed by the petitioner is that the respondents 2 and 3 without recourse to law, is attempting to interfere with the property in R.S.No.1061/1 part and 1A1 which is also covered under Patta No.99 which according to the petitioner, is a Ryotwari land and therefore, came forward to file this writ petition.

6.Mr.M.Venkatachalapathy, learned Senior Counsel assisted by Mr.M.Sriram, learned counsel appearing for the petitioner has drawn the attention of this Court to the typed set of documents and would submit that the documents filed therein would disclose that the petitioner is the absolute owner of the landed properties and the respondents 2 and 3, without recourse to law, cannot trespass upon the property and prays for appropriate orders.

7.This Court also heard the submissions of Mr.A.N.Thambidurai, learned Special Government Pleader who accepts notice on behalf of the respondents.

8.Though the petitioner prayed for a larger relief, this Court in the light of the above facts and circumstances and without going into the merits of the same, permits the petitioner to submit a detailed representation by enclosing the documents in support of his claim to the respondents 2 and 3, within a period of two weeks from the date of receipt of a copy of this order and the respondents 2 and 3 on receipt of the said representation, is directed to consider the same, in accordance with law and pass orders, within a further period of eight weeks thereafter and till then, shall not disturb the possession of the petitioner in respect of the property in R.S.No.1061/1A1 and R.S.No.1061/3 in Gudalur.

9.The writ petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is also closed.
pri

-s/d-

Assistant Registrar (CS-VI)

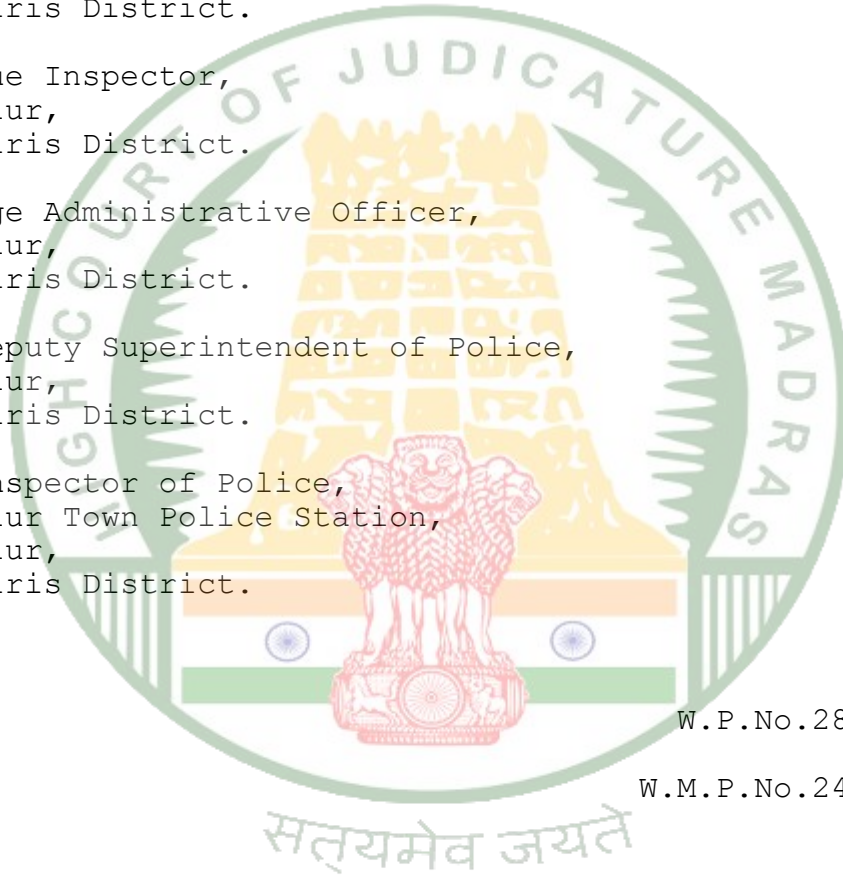
True Copy

Sub-Assistant Registrar

To

- 1 The Collector,
Nilgiris District,
Nilgiris.
- 2 The Revenue Divisional Officer,
Gudalur,
Nilgiris District.
- 3 The Tahsildhar,
Gudalur,
Nilgiris District.
- 4 Revenue Inspector,
Gudalur,
Nilgiris District.
- 5 Village Administrative Officer,
Gudalur,
Nilgiris District.
- 6 The Deputy Superintendent of Police,
Gudalur,
Nilgiris District.
- 7 The Inspector of Police,
Gudalur Town Police Station,
Gudalur,
Nilgiris District.

mp1 (co)
prk22/8



W.P.No.28786 of 2016
And
W.M.P.No.24828 of 2016

WEB COPY