

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.10.2016

CORAM

THE HON'BLE MR. JUSTICE R.SURESH KUMAR

W.P.No.19055 of 2010
and M.P.No.1 of 2010

L.Perumal

...Petitioner

Vs.

1. The District Collector
Dharmapuri District, Dharmapuri
2. The Tahsildar,
Harur Taluk,
Dharmapuri District.
3. The Village Administrative Officer,
K.Echampadi Village,
Harur Taluk,
Dharmapuri District.
4. C.Kumar

.... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issue a Writ of Mandamus or any appropriate writ, direction or order in the nature of a writ, forbearing the respondents herein, their men and subordinates from in any manner interfering with my peaceful possession and enjoyment and evicting me from the land in S.No.56/1, 56/2, 56/6, 55 54 of an extent of about 50 cents in K.Echampadi Revenue village, Harur Taluk, Dharmapuri District.

For Petitioner : Mr.R.Thamarai Selvan
For Respondents: Mr.P.Sanjay Gandhi,
Additional Government Pleader
- R1 & R2
: Mr.Thiruvengadam - R4
No appearance for R3

O R D E R

The prayer in the writ petition is for a mandamus forbearing the respondents herein, their men and subordinates from in any manner interfering with the peaceful possession and enjoyment of

the petitioner and from evicting him from the land in S.No.56/1, 56/2, 56/6, 55, 54 of an extent of about 50 cents in K.Echampadi revenue village, Harur taluk, Dharmapuri District.

2. Heard both sides.

3. The case of the petitioner is that he has been in peaceful enjoyment of the property referred above and the same is being claimed by the Government as it is a poramboke land. Be that as it may, even for a poramboke land, the penalty, possession and enjoyment cannot be determined without any notice especially under the provisions of Tamil Nadu Land Encroachment Act, 1905.

4. Per contra, the learned Government pleader appearing for the respondents would submit that the land in question is a Government land. The land is purely a Government poramboke land and the possession of such land by petitioner has not been recognised by the Revenue Authority by issuance of 'B' memo. At any rate, the petitioner cannot claim any right over the Government property and therefore, the writ petition itself is liable to be dismissed.

5. Admittedly, the subject land which the petitioner claims possession is a Government land and therefore, the petitioner cannot have any right, whatsoever and even for the period he has been in occupation, he should pay penalty under the relevant provisions of law. Even that payment of penalty cannot conceive any right on the petitioner for the continuous possession or for claiming patta or any right. When that being the possession, the prayer in this writ petition cannot be granted as such. However, the petitioner's continuous possession since is admitted by the respondents also, the eviction, if any, proposed against the petitioner can only be done after due process of law under the provisions of Tamil Nadu Land Encroachment Act, 1905. After giving due notice as contemplated u/s.6&7 of the said Act.

6. With these observations, the writ petition is disposed of. No costs. As a consequence of the order passed in this writ petition, the interim order of injunction already granted stands vacated. Consequently connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

dpq

To

1. The District Collector
Dharmapuri District, Dharmapuri

2. The Tahsildar,
Harur Taluk,
Dharmapuri District.

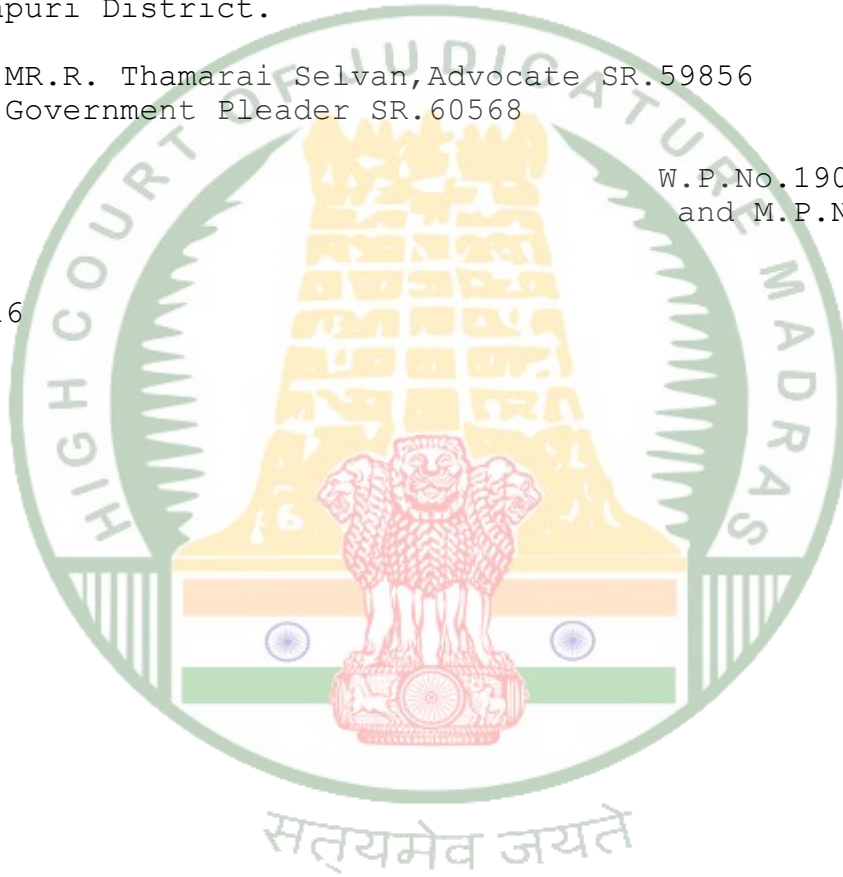
3. The Village Administrative Officer,
K.Echampadi Village,
Harur Taluk,
Dharmapuri District.

+ 1 cc to MR.R. Thamarai Selvan, Advocate SR.59856

+ 1 cc to Government Pleader SR.60568

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SCD(CO)
EU 28.11.16



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