

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 04.10.2016

CORAM :
THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.34060 of 2016
and
W.M.P. No.29404 of 2016

B. Bouvaneswary ... Petitioner

-vs-

1. The District Collector
Cuddalore District
Cuddalore.
2. The Tahsildar
Taluk Office
Bhuvanagiri
Cuddalore District.
3. The Assistant Engineer
Public Works Department
Senthithope
Bhuvanagiri Taluk
Cuddalore District. ... Respondents

Writ Petition under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for the records relating to the impugned notice dated 22.08.2016 issued by the 3rd respondent under Form-III of Rule 6(1) of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007, directing the petitioner herein to remove the encroachment made in Kumara Udaippu Vaikkal in RS No.106 Setthiyathope Village, Bhuvanagiri Taluk, Cuddalore District and quash the same and pass further orders.

For petitioner : Mr.T. Ramesh
For respondents: Mr.K. Dhananjayan, Spl.G.P.

O R D E R

(Order of the Court was made by Huluvadi G.Ramesh, J.)

Heard learned counsel for the petitioner and Mr. K. Dhananjayan, learned Special Government Pleader, accepting notice for the respondents 1 to 3.

2. With the consent of both the parties, the matter is taken up for final disposal at the stage of admission itself.

3. This Writ Petition is filed by the petitioner, to quash the impugned notice dated 22.08.2016 issued by the 3rd respondent under Form-III of Rule 6(1) of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007, directing the petitioner herein to remove the encroachment made in Kumara Udaippu Vaikkal in RS No.106 Setthiyathope Village, Bhuvanagiri Taluk, Cuddalore District.

4. Learned counsel for the petitioner submitted that the petitioner is the absolute owner of the property comprised in R.S. 96/3B, 96/4A2 and 96/4B2 of Settiyathope Revenue Village vide Patta No.249 and a school is run by the petitioner in the property from the year 2004. The subject land is comprised in R.S. No.106 and is located behind the school. It is stated by the petitioner that she is maintaining the said land by growing several plants and trees and have also constructed a compound wall to stop soil erosion. Adjacent to the wall, a toilet for the school students is constructed. It is further stated by the petitioner that she is not claiming any absolute right or title on the said Government poromboke land and she is only maintaining the same. Whileso, the petitioner has received the notice in Form III issued under Section 6(1) of The Tamil Nadu Protection of Tank and Eviction of Encroachment Act, 2007, wherein the 3rd respondent has directed to remove the encroachment made in Kumara Udaippu Vaikkal in RS No.106 Setthiyathope Village, Bhuvanagiri Taluk, Cuddalore District. Challenging the same, the petitioner is before this Court.

5. It is represented by the learned counsel for the petitioner that the petitioner is not concerned about the said land, which belongs to the Government. However, she is only maintaining the said land. The grievance of the respondents is that under the guise of maintaining, they are trying to encroach and grab the entire land. It is clarified by the petitioner that only a compound wall is put up and that they are willing to remove the encroachment. It is also stated by the petitioner that an appeal filed under Section 10-A of the Tamil Nadu Land Encroachment Act is also pending before the first respondent.

6. Taking into consideration the submissions of the petitioner and the order of this Court dated 09.09.2016 passed in W.P. No. 31509 of 2016, the District Collector is directed

to consider, hear and dispose of the appeal of the petitioner, within two months from the date of receipt of a copy of this order, after conducting a detailed enquiry and survey in this regard. Till final orders are passed in the appeal, there shall be an order of status quo.

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

Sd/-
Assistant Registrar(AS)

//True Copy//

Sub Assistant Registrar

To

1. The District Collector
Cuddalore District, Cuddalore.
2. The Tahsildar
Taluk Office, Bhuvanagiri
Cuddalore District.
3. The Assistant Engineer
Public Works Department
Senthiyathope, Bhuvanagiri Taluk
Cuddalore District.

+1cc to Mr.T.Ramesh, Advocate, S.R.No.57081
+1cc to the Government Pleader, S.R.No.57337

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and
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cp 12/11/2016