

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2016

CORAM:

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

WRIT PETITION No.40874 of 2016

Ragavan Kannan

... Petitioner

vs.

1. The District Collector,
Kancheepuram District.
 2. The Tahsildar,
Sriperumbudur, Kancheepuram District.
 3. The Special Tahsildar,
Adi-Dravidar Welfare Department,
Kancheepuram.
 4. The Assistant Executive Engineer,
Highways, Sriperumbudur,
Kancheepuram District.
- ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus, forbearing the respondents, their subordinates, men and agents from either trespassing, disturbing or evicting the petitioner otherwise than under due process of law from the petitioner's private land to the extent of 0.04 acres in R.S.No.17/1 (Plot No.7-49) in Karanai Thangal Village, Sriperumbudur Taluk, Kancheepuram District (then Chengalpet District).

For Petitioner : Mr.I.C.Vasudevan

For Respondents: Mr.S.Rajeswaran
Special Government Pleader

O R D E R

The petitioner has come up with this Writ Petition seeking to forbear the respondents, their subordinates, men and agents from either trespassing, disturbing or evicting him otherwise than under due process of law from his private land to an extent of 0.04 acres in R.S.No.17/1 (Plot No.7-49) in Karanai Thangal Village, Sriperumbudur Taluk, Kancheepuram District.

2. According to the petitioner, he was granted patta to an extent of 0.04 acres in R.S.No.17/1 (Plot No.7/A9) in Karanai Thangal Village, Sriperumbudur Taluk, Kancheepuram District by the 2nd respondent vide order dated 19.06.1967. The 2nd respondent provided a house to the petitioner and from that date onwards, the petitioner has been in possession and enjoyment of the same so far, as absolute owner by paying necessary property taxes, electricity charges, etc. While so, the respondents 1 and 2 came to the petitioner's house and threatened to vacate the same, since they are going to demolish the said building, as if the said land is a poramboke land belonging to the Government, in order to extend the Highways from Vandalur to Walajabad as per the provision of Tamil Nadu Highways Act, 34/2002.

3. It is the case of the petitioner that he has been in possession and enjoyment of the said land for more than 50 years as absolute owner on the basis of the Patta issued by the 2nd respondent, which is legal and binding on the respondents. Hence, according to him, respondents 1 and 2 ought to have issued notice to the petitioner under Section 15(2) of the Tamil Nadu Highways Act, so as to enable the petitioner make his objections and conduct enquiry in the event of any acquisition of land as per the said Act.

4. Since the respondents 1 and 2 did not consider the claim of the petitioner, he made a representation to the 1st respondent, in person, requesting him not to disturb his possession and enjoyment of his land. Hence, the petitioner filed W.P.No.11874 of 2016 and the same was disposed of by this Court, by an order dated 30.03.2016 directing the first respondent to consider the petitioner's representation dated 21.03.2016 by affording an opportunity of personal hearing to the petitioner and pass appropriate orders. As no enquiry was conducted by the 1st respondent and as the 4th respondent went to the petitioner's house and insisted him to vacate the house, having no other alternative, the petitioner is once again before this Court.

5. Learned counsel for the petitioner contended that if the petitioner is construed as an encroacher, he has to be given an opportunity of hearing to put forth his case. According to him, the petitioner is the absolute owner of the property in question.

6. Learned Special Government Pleader submitted that if the petitioner appears to be an encroacher in the eye of law, certainly, necessary proceedings will be initiated against him.

7. Considering the facts and circumstances of the case and without going into the merits of the case, this Court

directs the 1st respondent to consider the petitioner's representation on merits and in accordance with law after affording an opportunity of hearing to him and pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order.

This Writ Petition is disposed of with the above direction. No costs. Consequently, connected W.M.P.No.34875 of 2016 is closed.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

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To:

1. The District Collector,
Kancheepuram District.
2. The Tahsildar,
Sriperumbudur,
Kancheepuram District.
3. The Special Tahsildar,
Adi-Dravidar Welfare Department,
Kancheepuram.
4. The Assistant Executive Engineer,
Highways,
Sriperumbudur,
Kancheepuram District.

1 cc to Mr.I.C. Vasudevan, Advocate, Sr. 73222
1 cc to Government Pleader, Sr. 73660

W.P.No.40874 of 2016

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