



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:21.01.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.(MD)No.21071 of 2014

and

M.P(MD)No.1 of 2014

A.Udayappan

... Petitioner

Vs.

- 1.The Additional Chief Secretary,
Commissioner of Land Administration,
Chepauk, Chennai - 600 005.
- 2.The District Revenue Officer,
Sivagangai District.
- 3.The Tashildar,
Karaikudi Taluk, Sivagangai District.
- 4.U.Arumugam
- 5.P.Chinna Karuppan

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus forbearing the respondents from evicting the petitioner from the property in Survey No.324/1 in Manachai Village, Kothadi Group, Karaikudi Taluk, Sivagangai District without following the provisions of the Tamil Nadu Land Encroachment Act, 1905.

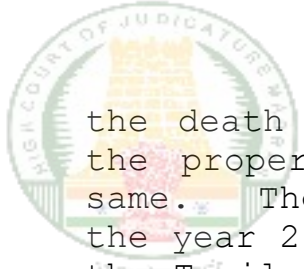
For Petitioner	: Mr.I.Robert Chandrakumar for Mr.G.Prabhu Rajadurai
For R-1 to R-3	: Mr.S.Kumar, Additional Government Pleader
For R-4	: Mr.RM.Arun Swaminathan
For R-5	: Mr.K.N.Govardhan

O R D E R

This Writ Petition is filed seeking for a Mandamus forbearing the respondents from evicting the petitioner from the property in Survey No.324/1 in Manachai Village, Kothadi Group, Karaikudi Taluk, Sivagangai District without following the provisions of the Tamil Nadu Land Encroachment Act, 1905.

2. The case of the petitioner is as follows:

The property bearing Survey No.324/1 measuring 0.20.34 hectares in Manachai Village, Kothadi Group, Karaikudi Taluk, Sivagangai District, belongs to the petitioner, his brother by name K. Sankar and his sister by name Valli. Patta for the said property was issued by the erstwhile Zamin during the year 1915 to the ancestor of the petitioner namely one Udayan Konar. After



the death of said Udayan Konar, his son Karutha Konar inherited the property and thereafter, his son Adiya Konar inherited the same. The petitioner is the son of said Adiya Konar, who died in the year 2001. During the settlement proceedings initiated under the Tamil Nadu Act 26 of 1948, the petitioner's great grandfather due to ignorance, did not take steps to register his name as pattadar and therefore, the said land was recorded as Government Natham Vacant Land in the revenue records. However, the petitioner's possession was not disturbed at any point of time. While that being so, it was noticed that the fourth respondent and the father of the fifth respondent herein have brought their names included in the revenue records in respect of the said property by sub-dividing the same. Therefore, the petitioner filed an application before the Revenue Divisional Officer, Devakottai. The Revenue Divisional Officer, Devakottai after conducting enquiry cancelled the entries made in the names of the fourth respondent and the father of the fifth respondent. Consequent upon the order passed by the Revenue Divisional Officer, the petitioner approached the Assistant Settlement Officer, Madurai for grant of settlement patta. However, the said Officer found that he had no jurisdiction to grant patta after conclusion of the settlement proceedings. Therefore, the petitioner once again approached the Revenue Divisional Officer, who in turn through proceedings, dated 22.05.1998, entered the names of the petitioner, his father, his brother and sister in the revenue records. The said order was not challenged by the respondents 4 and 5 immediately and however, only in the year 2001 they have filed a revision before the second respondent. The second respondent personally inspected the property and conducted a spot inspection. Consequently, the second respondent confirmed the order of the Revenue Divisional Officer. Thereafter, on 17.02.2012, the Tahsildar, Devakottai issued a patta in favour of the petitioner and his brother in respect of Survey No.324/1A and 324/1B respectively. The respondents 4 and 5 filed a further revision before the first respondent. By proceedings, dated 06.10.2014, the first respondent passed an order that patta should not be granted for the entire extent of land and accordingly, remanded the matter back to the second respondent to examine the claim of the parties and to decide for grant of patta by taking into account the guidelines for vacant natham land. Challenging the said order, the petitioner filed W.P(MD)No.19309 of 2014 and the said Writ Petition is pending admission. While that being so, the officials of the third respondent visited the property of the petitioner and threatened to evict from the said property in view of the remand order passed by the first respondent. Therefore, the present Writ Petition is filed seeking for the relief as stated supra.

3. The learned counsel appearing for the respondents 4 and 5 <https://hcmns.court.gov.in/hcmns/> in respect of the very same survey No.324/1, a Public Interest Litigation was filed before this Court in W.P(MD) No.15202 of 2013 seeking for a Mandamus directing the District



Collector and Tahsilder to evict the encroachment in the said land made by the petitioner herein, who was arrayed as fourth respondent therein. He further submitted that the said Writ Petition was disposed of on 08.09.2015 by directing the writ petitioner therein by name A.Jegarajan to approach the competent authority and file objection for removal of encroachment and consequent upon such order passed, now the eviction proceedings are initiated and the petitioner is also given notice. Therefore, he contended that the prayer sought for in the present Writ Petition has become infructuous.

4. Heard the learned counsel appearing for the petitioner, the learned Additional Government Pleader appearing for the respondent Nos.1 to 3 and the learned counsel appearing for the respondent Nos.4 and 5.

5. The prayer sought for in this Writ Petition is to forbear the respondents from evicting the petitioner from the subject matter property except by following the provisions of the Tamil Nadu Land Encroachment Act, 1905. Now from the order passed by the Honourable Division Bench, dated 08.09.2015 made in W.P(MD) No.15202 of 2013, it is evident that already proceedings have been initiated against the petitioner herein seeking for eviction from the subject matter property. As it is stated that the said Jegarajan, who filed the above Public Interest Litigation before the Division Bench has already filed a petition before the Tahsildar, Karaikudi Taluk for removal of the encroachment made by the petitioner, needless to say that the Tahsildar will consider the said application/complaint made by the said Jegarajan and pass appropriate orders, on merits and in accordance with the G.O.Ms.No.540 Revenue Department, dated 04.12.2014 as observed by the Honourable Division Bench in the above said order. Needless to say that while passing such an order, the Tahsildar shall also hear the petitioner herein and the objections made by him and thereafter to pass such an order on merits and in accordance with law as directed by the Honourable Division Bench. When eviction proceedings is initiated as per law, I do not think that the prayer sought for in this Writ Petition subsists any more.

6. Accordingly, this Writ Petition is disposed of by granting liberty to the petitioner to agitate the matter before the Tahsildar by raising all the objections, who in turn will consider the same and pass orders on merits as per the directions issued by the Honourable Division Bench made in W.P(MD)No.15202 of 2013. No Costs. Consequently, connected miscellaneous petition is closed.

Sd-

Assistant Registrar(T&P)



To

1.The Additional Chief Secretary,
Commissioner of Land Administration,
Chepauk,
Chennai - 600 005.

2.The District Revenue Officer,
Sivagangai District.

3.The Tashildar,
Karaikudi Taluk,
Sivagangai District.

+One cc to Mr.RM.Arun Swaminathan, Advocate, SR.No.3942

+One cc to The Special Government Pleader, SR.No.3809

pm

RL/6C/GSV/AN/3/2/2016

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