



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 06.10.2016

Delivered on : 18.10.2016

CORAM

THE HON'BLE Mr. JUSTICE M.SATHYANARAYANAN
AND
THE HON'BLE Ms. JUSTICE V.M.VELUMANI

W.P. (MD) No.17461 of 2016
&
W.M.P. (MD) No.12653 of 2016

M.Subramanian .. Petitioner

Vs.

1.The District Collector,
Dindigul District,
Dindigul.

2.The Sub-Collector,
Palani,
Dindigul.

3.The Thasildar,
Ottanchathiram Taluk,
Dindigul District.

4.The Revenue Inspector,
Chinnakampatti,
Ottanchathiram,
Dindigul District.

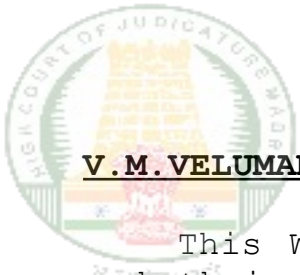
.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, forbearing the respondents and their men, agents, servants or any one on their behalf by proceeding further in any manner what so ever, either way of demolishing and disconnecting the power supply in pursuance of the notice dated 19.03.2016 on the file of the third respondent until the appeal dated 03.05.2016 received by the first respondent on 05.05.2016 filed by the petitioner under Section 10 of the Land Encroachment Act is considered on merits in accordance with law.

For Petitioner

<https://hcservices.ecourts.gov.in/hcservices/>
For Respondents

: Mr.N.Shanmugaselvam
: Mr.VR.Shanmuganathan
Special Government Pleader

**ORDER****V.M.VELUMANI, J.**

This Writ Petition has been filed to forbear the respondents and their men, agents, servants or any one on their behalf by proceeding further in any manner what so ever, either way of demolishing and disconnecting the power supply in pursuance of the notice dated 19.03.2016 on the file of the third respondent until the appeal dated 03.05.2016 received by the first respondent on 05.05.2016 filed by the petitioner under Section 10 of the Land Encroachment Act is considered on merits and in accordance with law.

2. The petitioner purchased two properties in S.No.234/2B and S.No.234/2A at Kuthiluppai Village, Ottanchathiram Taluk, Dindigul District. He is carrying on stone quarry business in the name and style of "Sri Saravana Blue Metals". The petitioner wanted to construct quarters for his workers. Adjacent to two properties referred to above is the land in S.F.No.240/1, at Kuthiluppai Village, Ottanchathiram Taluk. By mistake, the petitioner constructed the quarters for his workers in the said land. He received notice, dated 19.01.2016 and 23.02.2016 from the second respondent, intimating the petitioner that he has encroached the land in S.F.No.240/1, which belongs to "Boomithan Board". In the said notice, it has been stated that the petitioner has stored quarried stones in the encroached land. The petitioner made a representation to the third respondent with copy marked to the first respondent stating that without knowing the fact that the land in S.F.No.240/1 belongs to "Boomithan Board", he constructed quarters for his workers and obtained an electricity service connection. The petitioner offered his land to an extent of 4 Acres at Chinnakampatti Village and requested the respondents to allot the land in S.F.No.240/1 to him in exchange of his land. The respondents ordered eviction. Therefore, the petitioner filed W.P.(MD)No.6190 of 2016 before this Court challenging the said order of eviction. This Court dismissed the writ petition, vide order dated 30.03.2016, holding that the petitioner has effective alternative remedy by way of filing an appeal under Section 10 of the Tamil Nadu Land Encroachment Act and giving liberty to him to file an appeal along with an interim application seeking the relief of stay, before the first respondent, within a period of two weeks from the date of receipt of a copy of that order. As per the order of this Court, the petitioner filed an appeal before the first respondent on 03.05.2016 and sent the same by registered post. The petitioner also prayed for stay the order of eviction. The first respondent received the appeal on 05.05.2016. He did not pass any order in the stay petition and did not issue any notice to the respondents 3 and 4 and appeal is pending before the first respondent. While so, the respondents 2 to 4 on 10.09.2016 came along with the earthmover and demolished a portion of the



quarters constructed by the petitioner. In the circumstances, the petitioner has filed the present writ petition for the relief stated supra.

3. Mr.N.Shanmugaselvam, learned counsel for the petitioner submitted that the respondents 2 to 4 in an arbitrary manner started demolition of the quarters put up by the petitioner, when the appeal before the first respondent is pending. The petitioner has offered an alternate land in exchange of land in S.F.No.240/1. The first respondent has not passed any order in the said appeal. Therefore, he prayed for allowing the writ petition.

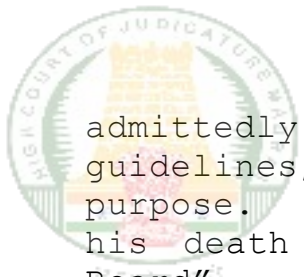
4. The respondents 3 and 4 have filed counter affidavit.

5. Mr.VR.Shanmuganathan, learned Special Government Pleader appearing for the respondents submitted that the land in S.F.No.240/1 belongs to "Boomithan Board". It was meant for allotment to poor landless farmers, for agricultural purpose and there is no provision for exchange of land. The title of the properties vests with "Boomithan Board", even after allotment to landless agriculturalist. If the allottee died or if no agricultural activities carried on for three years, the land will be resumed by the "Boomithan Board" and allotted to landless agriculturalists. The land is meant only for agricultural purpose and there is no provision for allotment of land for commercial purpose. The land in S.F.No.240/1 was allotted to one Karuppan, for agricultural purpose. He died in the year 2000 without leaving any legal heirs. Therefore, the land was resumed by the "Boomithan Board". The same will be allotted to some landless agriculturalists, for agricultural purpose. After the death of Karuppan and the land got resumed by the "Boomithan Board", the petitioner has encroached the said land. The petitioner is carrying on commercial activities and seeking allotment of the said land for commercial purpose and for using the land as quarters for his workers. In the circumstances, the petitioner is not entitled to allotment of the land belonging to the "Boomithan Board".

6. The learned Special Government Pleader further submitted that the respondents have already demolished all the constructions put up by the petitioner, except the power room. The respondents have requested the Electricity Board to disconnect the electricity power connection, so that, the said room can also be demolished. Therefore, he prayed for dismissal of the writ petition.

7. We have carefully perused all the materials available on record and considered the arguments advanced by the learned counsel appearing for the parties.

8. On perusal of the materials available on record, it is seen that the petitioner is the owner of the lands in S.Nos.234/2B and 234/2A only. He has encroached the land in S.F.No.240/1, which



admittedly belongs to the "Boomithan Board". As per norms and guidelines, the said land can be used only for agricultural purpose. The land was already allotted to one Karuppan and after his death in the year 2000, it was resumed by the "Boomithan Board". The petitioner is seeking allotment of the land for commercial purpose. The contentions of the respondents 3 and 4 that the said land can only be used for agricultural purpose and there is no provision for exchange of the said land, are not disputed by the petitioner. Further, the petitioner has also not disputed the contention of the learned Special Government Pleader that the entire construction except the power room was demolished. The learned Special Government Pleader has produced photographs to substantiate the said submission. The contention of the learned counsel for the petitioner that by mistake the petitioner has constructed the quarters in the land belonging to the "Boominathan Board", is not acceptable and the said contention has no force. In view of the undisputed facts that the land belonging to the "Boomithan Board" can be used only for agricultural purpose and there is no provision for exchanging the land or using the said land for commercial purpose, we hold that the writ petition is devoid of merits and is liable to be dismissed. Accordingly, the writ petition is dismissed. No costs. Consequently, connected W.M.P.(MD)No.12653 of 2016 is also dismissed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To

- 1.The District Collector,
Dindigul District, Dindigul.
- 2.The Sub-Collector,
Palani, Dindigul.
- 3.The Thasildar,
Ottanchathiram Taluk, Dindigul District.
- 4.The Revenue Inspector,
Chinnakampatti, Ottanchathiram,
Dindigul District.

+1 cc to MR.N.SHANMUGA SELVAM, Advocate SR.No.61515

W.P.(MD)No.17461 of 2016

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18.10.2016