



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

AND

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P. (MD) No.19548 of 2016
and W.M.P. (MD) No.14107 of 2016

St.Joseph's College,
Rep. by its Procurator,
Tiruchirappalli - 8.

: Petitioner

Vs.

1.The Revenue Divisional Officer,
Tiruchirapalli.

2.The Tahsildar,
Tiruchirapalli.

3.The Commissioner,
Tiruchirapalli City Municipal Corporation,
Tiruchirapalli.

4.Gunasekaran

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings of the 1st Respondent herein in Mu.Mu.No.AS/1940/2016 dated 08.09.2016 and to quash the same and consequently forbear the Respondents herein from in any manner interfering with the peaceful possession and enjoyment of the property of the Petitioner comprised in Survey No.8/2A of Chinthamani Village, Tiruchirapalli East Taluk, Tiruchirapalli District.

For Petitioner	: Mr.AR.L.Sundaresan Senior Counsel for Mr.S.Vinod Sathya Lazar
For Respondents	: Mr.S.Chandrasekar 1 & 2 Government Advocate
For 3 rd Respondent	: Mr.N.S.Karthikeyan Additional Government Pleader
For 4 th Respondent	: Mr.G.S.Ashok Adhityan

O R D E R

[Order of the Court was made by S.NAGAMUTHU, J.]

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

The dispute in this writ petition is in respect of the land



comprised in Town Survey No.8/2A, Block No.25, Ward F, Chinthamani Village, Tiruchirapalli East Taluk, Tiruchirapalli District.

2. According to the 4th respondent the said land belongs to Tiruchirapalli Corporation, over which some encroachment has been made by the petitioner. In this regard, the second respondent issued notice to the petitioner's college, claiming that the college has encroached a portion of the said property. That notice was issued on 07.09.2016 by the Tahsildar. But even before the Tahsildar hold an enquiry into the matter, the first respondent has passed the impugned order directing the Tiruchirapalli Corporation to remove the petitioner from the property and restore the same to Tiruchirapalli Corporation. Challenging the same, the petitioner has come forward with this Writ Petition.

3. We have heard the learned counsel for the petitioner, the learned Government Advocate for respondents 1 and 2, the learned Additional Government Pleader for 3rd respondent and the learned counsel for the 4th respondent. We have also perused the records carefully.

4. A perusal of the order impugned would show that the patta still stands in the name of the petitioner. Petitioner claims right or title over the property. The Tahsildar had issued notice to hold enquiry. But even without waiting for the enquiry, the Revenue Divisional Officer has issued the impugned order as though concluded that the land belongs to Tiruchirapalli Corporation. This appreciation has been made without offering any opportunity to the petitioner. Further, it is not known how the Revenue Divisional Officer could come to the conclusion that the land belongs to the Tiruchirapalli Corporation as though he adjudicated upon the issue of title, that too without offering opportunity to the petitioner. In such view of the matter, the order passed by the first respondent, which is impugned in the writ petition is liable to be set aside. It is for the Tiruchirapalli Corporation or the Tahsildar, Tiruchirapalli to hold appropriate enquiry, then to proceed in accordance with law after affording sufficient opportunity to the petitioner.

5. In the result, the Writ Petition is allowed and the impugned order of the first respondent in Mu.Mu.No.AS/1940/2016, dated 08.09.2016, is set aside, however, with liberty as indicated above. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AE)

/True Copy/



To

1.The Revenue Divisional Officer,
Tiruchirapalli.

2.The Tahsildar,
Tiruchirapalli.

- + 1 CC TO Mr.G.S.ASHOK ADITHITHYAN, ADVOCATE IN SR No. 65354
- + 1 CC TO Mr.S.VINOD SATHYA LAZAR, ADVOCATE IN SR No. 64881
- + 1 CC TO Mr.N.S.KARTHIKEYAN, ADVOCATE IN SR No. 64664
- + 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 64954

SJ

TE/SKS-RR : 15/11/2016 : 3P/7C

Order made in
W.P. [MD] .No.19548 of 2016
and W.M.P. (MD) No.14107 of 2016
Dated: 01.11.2016