



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 01.06.2016

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THE HONOURABLE MR.JUSTICE M.VENUGOPAL

W.P (MD) No.8993 of 2016

and

W.M.P (MD) No.7173 of 2016

Selvi

..Petitioner

Vs

1.The District Collector,
Kanyakumari District,
Nagercoil

2.The Tahsildar,
Thovalai Circle,
Thovalai,
Kanyakumari District.

..Respondents.

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus for hearing the respondents from interfering with the peaceful possession and enjoyment of the property bearing S.No.640/3 measuring to an extent of 0.21.0 acres at Therisanamkoppu Village, Thovalai Taluk, Kanyakumari District, by the Petitioner, forthwith.

For Petitioner : M/s.S.Palani Velayutham

For Respondents : Mr.J.Gunaseelan Muthiah
Govt.Advocate

ORDER

Heard both sides.

2.With the consent of both sides, the Writ Petition itself is taken up for final disposal.

3.The grievance of the Petitioner is that the property bearing S.No.640/3 measuring to an extent of 0.121.0 acres situated at Therisanamkoppu Village, Thovalai Taluk, Kanyakumari District is an agricultural property and originally belonging to the Government as 'Revenue Poramboke'. Indeed, 35 years before, the



said property was given to the Petitioner by the respondents for the purpose of carrying out agricultural operation and thereby to eke out her livelihood.

4. The learned counsel for the Petitioner strenuously submits that the Petitioner made the property in question to be fit for agriculture and thereafter, she had planted mango, tamarind and other trees, apart from cultivating other crops. For several decades, she is carrying out agricultural activity in the said property. On 4.7.1994, the second respondent/The Tahsildar, Thoivalai Circle, Thoivalai, Kanyakumari District by means of Official Memorandum 5.27/94, issued patta in her favour and there is no dispute whatsoever as regards the possession of the property. However, during the year 2007, the respondents instructed the Petitioner to vacate the agricultural property stating that she was in occupation of the agricultural property in question and to hand-over the same to them. However, no written communication was issued to that effect. As such, the Petitioner was constrained to file W.P(MD)No.1885 of 2007 before this Court on 5.3.2007, this Court disposed of the Writ Petition by observing the following:

'The Learned Special Government Pleader for the respondents has submitted that if the property in question stands in the name of the Petitioner and it is found that the Petitioner is in possession of the same, the respondents will not interfere with that, without due process of law.

In view of the said submissions of the Learned Special Government Pleader for the respondents, this Court is of the view that no further order is required to be passed in this Writ Petition. Accordingly, recording the said submissions, this Writ Petition is disposed of, at the admission stage itself. No costs. Consequently, the connected M.P is closed.'

5. The categorical plea of the Petitioner is that after a lapse of more than eight years, recently on 13.4.2016, the second respondent, at the instance of the local Village Administrative Officer, visited the agricultural property and informed her to hand-over the vacant possession. When she requested for furnishing a copy, they had not given any reply etc and went away.

6. The core contention advanced on behalf of the Petitioner is that since no written communication was given to the Petitioner, the Petitioner on 22.4.2016 sent a detailed representation (through courier service) to the respondents and also to the Government of Tamil Nadu and till date, the respondents have not furnished any reply to her representation.



7.As far as the present case is concerned, the Petitioner in the Writ Petition is seeking the relief for passing of an order by this Court in directing the respondents restraining them from interfering with the peaceful possession and enjoyment of the property bearing S.No.640/3 measuring to an extent of 0.21.0 acres at Therisanamkoppu Village, Thovalai Taluk, Kanyakumari District.

8.On a careful consideration of the contentions advanced on behalf of the Petitioner and also this Court taking note of the fact that the Petitioner had addressed a representation, dated 22.04.2016 to the respondents, this Court, at this stage, without going into the merits of the matter, in the interest of justice, fair play, equity, good conscience and even as a matter of prudence, directs the second respondent/The Tahsildar, Thovalai Circle, Thovalai, Kanyakumari District to look into the representation of the Petitioner, dated 22.4.2016, with an open mind and that too, in an unbiased and dispassionate manner and to dispose of the said representation by providing necessary opportunity to the Petitioner and other parties concerned (and also by adhering to the principles of natural justice) within a period of six weeks from the date of receipt of a copy of this order, by passing a reasoned and speaking order. It is open to the Petitioner and other parties concerned to submit necessary documents before the second respondent/The Tahsildar, Thovalai Circle, Thovalai, Kanyakumari District, so as to enable him to arrive at a conclusion in regarding to the passing of orders in the subject-matter in issue.

9.With the above said observations and directions, the Writ Petition is disposed of. Consequently connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar(AE1)

/True copy/

Sub AssistantRegistrar

To

1.The District Collector,
Kanyakumari District,
Nagercoil.



2.The Tahsildar,
Thovalai Circle,
Thovalai,
Kanyakumari District.

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+1cc to Mr.S.Palanivelayutham, Advocate SR.No.27642
+1cc to Government Pleader SR.No.27282

TE:PEK:SAR I:08.06.2016:4P/5C

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