

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.3.2017

CORAM

THE HON'BLE MR.HULUVADI G.RAMESH, ACTING CHIEF JUSTICE  
AND  
THE HON'BLE MR.JUSTICE R.MAHADEVAN

Writ Petition No.5203 of 2017

M.Ramakrishnan

.. Petitioner

Vs.

1. The Commissioner  
Corporation of Chennai  
Rippon Buildings  
Chennai 600 003.
2. The Collector  
Chennai Collectorate  
Singaravelan Maligai  
Rajaji Salai  
Chennai 600 001.
3. The Zonal Officer  
Zonal IV, Corporation of Chennai  
266, T.H.Road, Tondiarpet  
Chennai 600 021.
4. The Tahsildar  
Tondiarpet Taluk  
Chennai 600 003.

.. Respondents

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सत्यमेव जयते  
Petition under Article 226 of the Constitution of India  
praying for a writ of Certiorarified Mandamus to call for the  
records relating to the proceedings No.ZOIVC.0202/2017 dated  
10.02.2017 on the file of the third respondent and to quash the  
same and forbearing the third respondent from interfering with  
the petitioner's lawful possession and enjoyment of the land  
comprised in No.235, T.H.Road, Koungaiyur, Chennai 600 118,  
comprised in Survey No.181/2A1, T.S.No.16, Block No.49,  
Kodungaiyur Village, admeasuring 31.09 cents.

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For Petitioner : Mr.P.Gunaraj  
For Respondents 1 & 3 : Mr.A.Nagarajan  
For Respondents 2 & 4 : Mr.R.Vijayakumar  
Addl. Govt. Pleader

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O R D E R  
(Made by the Hon'ble Acting Chief Justice)

The petitioner has come up with this writ petition challenging the proceedings of the third respondent dated 10.02.2017 made in No.ZOIVC.0202/2017 and to forbear the third respondent from interfering with the lawful possession and enjoyment of the land comprised in No.235, T.H.Road, Kougaiyur, Chennai 600 118, comprised in Survey No.181/2A1, T.S.No.16, Block No.49, Kodungaiyur Village, admeasuring 31.09 cents.

2. Heard the learned counsel for the petitioner. Mr.A.Nagarajan, learned Standing Counsel takes notice for the respondents 1 and 3. Mr.R.Vijayakumar, learned Additional Government Pleader takes notice for the respondents 2 and 4.

3. According to the petitioner, the land where Senthil Murugan Temple is located is in possession of the petitioner from the date of his purchase and he had also obtained patta in his favour. But, according to the respondents, the temple is situated in the Corporation road land. Pursuant to the order dated 22.12.2016 passed by this Court in the writ petition, W.P.No.43945 of 2016 filed by the petitioner to demarcate the temple by the Tahsildar of Perambur Taluk, the Tahsildar inspected the property in question and submitted his report stating that the temple lies in the road portion and it has to be evicted. Therefore, as per the direction of this Court that no notice need be issued for removal of encroachment, the third respondent, by the impugned proceedings dated 10.02.2017, directed the petitioner to remove the encroachment within a period of 15 days from the date of receipt of a copy of this order, failing which, the respondent Corporation would remove the encroachment and recover the cost from the petitioner.

4. It is submitted that the petitioner had already filed a suit for declaration to declare that the land in question is a patta land. The question whether the land is a patta land or not has to be decided only by the civil Court, that too after analysing the material evidence adduced by both the parties at the time of trial and therefore, the same cannot be decided by this Court. Consequently, the writ petition is dismissed.

5. At this juncture, the learned counsel for the petitioner sought an order of interim stay till he obtains an order of protection from the civil Court. Taking into consideration the fact that in the land in question a temple is located, we direct the respondents to maintain status quo for a period of fifteen days and in the meantime, it is for the petitioner to obtain necessary order of protection from the civil Court.

The writ petition is dismissed with the above direction. There shall be no order as to costs. Consequently, WMP No.5527 of 2017 is closed.

-s/d-  
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Commissioner  
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  4. The Tahsildar  
Tondiarpet Taluk  
Chennai 600 003.
- +1 cc to Mr.A.Nagarajan Advocate sr 14013  
+1 cc to Mr.P.Gunaraj Advocate sr 14546  
+1 cc to the Government Pleader High Court Madras  
sr 14243

W.P.No.5203 of 2017.

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aa15/03/2017