

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:11.07.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE N.SESHASAYEE

W.P.No.7389/2017 & WMP.No.8045/2017

Sanjeevi Rayar

..

Petitioner

Vs

1.The District Collector
Cuddalore District, Cuddalore.

2.The Revenue Divisional Officer
Cuddalore District, Collectorate,
Cuddalore.

3.The Tahsildar
Taluk Office, Panruti,
Cuddalore District.

4.The Block Development Officer
Panchayat Union Office, Panruti
Cuddalore District.

5.Mr.Arivalagan

..

Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorari calling for the records in connection with the order passed by the 3rd respondent herein in Na.Ka.No.A1.4559/2016 dated 14.02.2017.

For Petitioner : Mr.Kingston Jerold

For RR 1 to 4 : Mr.M.Elumalai, GA

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.]

By consent, the writ petition is taken up for final disposal.

2 The petitioner claims that he is having a patta in respect of the lands admeasuring to an extent of 0260 sq.m., and 0342 sq.m., comprised in new SF.Nos.407/9 and 407/10 respectively, situate at Kattukudalur Village, Panruti Circle and would further admit that he has encroached upon some extent of land in S.No.407/5. It is the claim of the petitioner that the encroached land is used as an access to his lands and he has moved the concerned authority, praying for issuance of patta and in the interregnum, pursuant to the order passed by this Court dated 16.02.2016 made in WP.No.2102/2016 filed by Mr.Arivalagan, [the 5th respondent herein] President of Nethaji Students Welfare Association, Kattukudalur Village, the 3rd respondent herein has initiated action and thereafter, passed the impugned order dated 14.02.2017 for removal of the encroachment committed by the petitioner in S.No.407/5. The learned counsel for the petitioner would submit that since the petitioner is having an effective alternate remedy in the form of Appeal before the Collector of Cuddalore District, he may be permitted to avail the said remedy.

3 Per contra, Mr.M.Elumalai, learned Government Advocate appearing for the respondents 1 to 4 has invited the attention of this Court to the counter affidavit filed by the 3rd respondent and would submit that pursuant to the above said orders passed by this Court, the Revenue Inspector, Marungoor and the Village Administrative Officer, Kattukudalur Village, inspected the land in question and submitted a report dated 03.05.2016, stating that the land admeasuring to an extent of 1400 sq.m., in S.No.407/5 has been entered in the Village Accounts of Kattukudalur as "Panchayat Union Building" and in the said survey number, the petitioner has encroached upon 231.7 sq.m., by constructing a compound wall for the Elementary School owned by him and after affording an opportunity to the petitioner, the order of removal of encroachment / eviction came to be passed rightly and prays for dismissal of the writ petition.

4 This Court has considered the rival submissions and also perused the materials placed before it.

5 In the light of the limited prayer sought for by the learned counsel for the petitioner, this Court, without going into the merits of the claim projected by the petitioner, permits the petitioner to avail the appeal remedy by filing an appeal before the 1st respondent within a period of two weeks from the date of receipt of a copy of this order and the 1st respondent, shall entertain the said appeal if the papers are otherwise in order and after putting the 5th respondent on notice, shall consider and dispose of the appeal on merits and in accordance with law within a further period of six weeks

thereafter and communicate the decision taken, to the petitioner as well as to the 5th respondent herein.

6 The writ petition stands disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

AP

To

1. The District Collector
Cuddalore District, Cuddalore.
 2. The Revenue Divisional Officer
Cuddalore District, Collectorate,
Cuddalore.
 3. The Tahsildar
Taluk Office, Panruti,
Cuddalore District.
 4. The Block Development Officer
Panchayat Union Office, Panruti
Cuddalore District.
- + 1 cc to The Govt.Pleader, SR.48606
- + 1 cc to M/s.S.Kingston Jerold, Advocate,SR.48036

WP.No.7389/2017

NR 26/07/2017

सत्यमेव जयते

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