

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2017

CORAM

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

W.P.No.31086 of 2017 & W.M.P.No.34092 of 2017

Prakasam

... Petitioner

Vs.

1.The District Collector,
Thiruvallur.

2.The Tahsildar,
Thiruvallur Taluk.

3.The Executive Engineer,
Public Works Department.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, forbearing the respondents from interfering with the petitioner's peaceful possession and enjoyment of the property situated at Survey Nos.39/2/2, 39/2/3 and 39/2/1 in Noombal Village, Velappanchavadi, Thiruvallur District.

For Petitioner : Mr.V.Raghavachari

For RR1 to 3 : Mr.A.N.Thambidurai,
Special Government Pleader

सत्यमेव जयते
O R D E R

(Order of the Court was made by M. SATHYANARAYANAN, J.)

By consent the writ petition is taken up for final disposal. Mr.A.N.Thambidurai, learned Special Government Pleader, accepts notice on behalf of the respondent 1 to 3.

2 The petitioner claims that he had purchased the property in Survey Nos.39/2/2, 39/2/3 and 39/2/1 admeasuring to an extent of 0.09 cents in Noombal Village, Velappanchavadi, Thiruvallur District through a registered Sale Deed dated 06.04.2017 and he has also put up a superstructure and living along with his family ever since from the year 1985 and it is also subjected to statutory levies.

3 The petitioner would further aver that all of a sudden, on 23.10.2017 some officials came to his premises and informed that as per the directions of the officials of the Public Works Department, he has to evict the property in question.

4 It is a claim of the petitioner the property which is in his occupation, is an unregistered "Jaghir" and it has been granted by Nawab of Carnatic to a lady of his family and it was assigned in the year 1782 in favour of an Armeniam and thereafter, it is also subject matter of registration of suit in S.A.No.2037 of 2014 and it was disposed off on 18.02.2016.

5 Mr.V.Raghavachari, learned counsel appearing for the petitioner would submit that the petitioner had purchased the property admeasuring to an extent of 0.09 cents in Survey No.39/2/2 in Noombal Village and inadvertently, the boundaries had also been included as if the petitioner had purchased the lands more than the specified extent ; but the Sale Deed would clarify that the petitioner has purchased only an extent admeasuring to an extent of 0.09 cents only in Survey No.39/2/2 of Noombal Village and would further aver that day in and day out, the petitioner's possession is sought to be disturbed under the directions by the officials of Public Works Department and left with no other option, the petitioner is constrained to file this writ petition.

6. Per contra, Mr.A.N.Thambidurai, learned Special Government Pleader appearing for the respondent would submit that the action to remove the encroachment is strictly taken in accordance law and if the petitioner is having any grievance, he should have submitted a representation and without doing so, he had straightaway approach this Court and as such, the writ petition is not maintainable.

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

8 Though the petitioner has prayed for a larger relief, this Court, in the light of the facts and circumstances of this case and without going into the merits of the claim projected by him, permits the petitioner to submit a representation to respondents 2 and 3 by enclosing all relevant and authenticated documents within a period of two weeks from the date of receipt of copy of this order and upon receipt of the same, the respondents 2 and 3 are directed to consider the said representation on merits and in accordance with law and pass orders within a further period of six weeks thereafter and till such time the respondent shall defer further decisions, to dispossess the petitioner from the above land in question. It is also made clear that till the disposal of the representation to

be submitted by the respondents 2 and 3, the petitioner shall not create any 3rd party right in respect of the land in question and shall not alter the physical features also.

9 The writ petition stands disposed of accordingly. No costs.

Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

rka/abr

To

- 1.The District Collector,
Thiruvallur.
- 2.The Tahsildar,
Thiruvallur Taluk.
- 3.The Executive Engineer,
Public Works Department.

+ 1 cc to MR. V. Raghavachari, Advocate Sr.85357
+ 1 cc to MR. the Government Pleader Sr.85855

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KK(CO)
EU(26/12/2017)

सत्यमेव जयते

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