

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07.12.2017

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE SATRUGHANA PUJAHARI., J.,

WP.No.31775/2017 and WMP.34921 of 2017

Kannammal

Petitioner

Versus

1.The Additional Chief Secretary
to Government of Tamil Nadu,
Land Reforms and Land Administration,
Chepauk, Chennai.

2.The District Collector,
Krishnagiri District.

3.The Tahsildar,
Uthangarai Taluk,
Krishnagiri District

... Respondents

Writ petition filed under Article 226 of the Constitution of India, praying for a writ of mandamus directing the 1st respondent to dispose of the Revision Petition and stay petition filed by the petitioner on 29.11.2017 under Section 10A of Land Encroachment Act, 1905 against the dismissal of the petitioner's appeal by the 2nd respondent in his proceedings in Na.Ka.No.28316/2017/H3 dated 24.11.2017 with regard to total extent of 0.50 Cents comprised in Survey No.171/1 an extent of 0.30 Cents and in Survey No.171/3 and extent of 0.20 Cents Thiruvanapatti Village, Uthangarai Taluk, Krishnagiri District.

For Petitioner : Mr.K.Thiruvengadam

For Respondents: Mrs.M.E.Rani Selvam, AGP

ORDER

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

By consent, the writ petition is taken up for final disposal. Mrs.M.E.Rani Selvam, learned Additional Government

Pleader accepts notice on behalf of the 1st respondent and Mr.K.Soundararajan, learned Standing counsel accepts notice on behalf of the respondents 2 and 3.

2 The petitioner claims to be the owner of the land admeasuring to an extent of 0.61.0 hectares and 1.83.0 hectares in Survey No.170/2A and 170/9 respectively situated at Thiruvananpatti Village, Uthangarai Taluk, Krishnagiri District belonging to her and her husband and in between the two patta lands, there is a land admeasuring to an extent of 0.30.0 hectares classified as "Oni Poramboke" and 0.09.5 hectares classified as "Road Poramboke" and the petitioner claims that even prior to 40 years, she had encroached the lands and planted 25 Coconut Trees and also cultivating some crops and B Memos were also been issued by the officials recognising her long possession and enjoyment and however, to the shock and surprise, proceedings under Section Land Encroachment Act, 1905 were issued and challenging the legality of the same, she filed WP No.24435 of 2017 and this Court while disposing of the said writ petition, granted liberty to the petitioner to file an appeal before the Collector of Krishnagiri District and accordingly, she filed an appeal which came to be dismissed vide proceedings of the 2nd respondent dated 24.11.2017 in Na.Ka.No.28316/2017/H3 and challenging the legality of the same, she filed a revision before the 1st respondent on 29.11.2017 and along with petition for stay.

3 The learned counsel appearing for the petitioner would submit that though the revision has been entertained by the 1st respondent along with petition for stay is taken for hearing and the revenue officials are coming to the land in question frequently and threatening to dispossess the petitioner from the land and hence prays for appropriate orders and prays for a direction to the 1st respondent to dispose of the petition for stay at the earliest and in the interregnum, shall not disturb her possession.

4 Per contra, Mrs.M.E.Rani Selvam, learned Additional Government Pleader appearing for the respondents would submit that admittedly the revision filed only on 29.11.2017 and it is not clear from the affidavit whether the revision petition has been entertained or not and within a short span of time, the petitioner is not expected to approach this Court by filed writ petitioner and some time is required for the 1st respondent to consider and dispose of the said revision and therefore, the learned Additional Government Pleader appearing for the respondents would contend the writ petition is prematured and prays for dismissal of this writ petition.

5 The Court heard the rival submissions and also perused

the materials placed before it.

6 The 2nd respondent in his proceedings dated 24.11.2017 has concluded the petitioner is also the owner of vast extent of land and as per the Village Administrative Officer report, she has encroached upon 0.30.0 hectares of land in Survey No.171/1 which is classified as "Oni Poramboke" and yet another piece of Government land admeasuring to an extent of 0.09.0 hectares in 171/3, and also planted 50 Coconut Trees and are in enjoyment of the same and there is no 2A Register exist for the land in question and that the petitioner is economically well off and having found that the petitioner is an rank encroacher, has dismissed the appeal. The petitioner made a challenge to the revision dated 29.11.2017 pending disposal of the same prayed for stay of the operation passed by the 2nd respondent.

7 Though the petitioner has prayed for a larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner, directs the 1st respondent to entertain the special revision/appeal, if the papers are otherwise in order and shall take up the petition for stay and give a disposal in accordance with law within a period of six weeks from the date of receipt of a copy of this order and the said official is also at liberty to take up the main appeal/special revision for final hearing itself and give a disposal on merits and in accordance with law as expeditiously as possible and communicate the decision taken, to the petitioner. It is made clear that the 3rd respondent, till the disposal of the petition for stay by the 1st respondent / delegated official, shall not create any 3rd party right in respect of the land in question and shall not alter the physical features also.

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

Sd/-
Assistant Registrar (CS VIII)

//True copy//

Sub Assistant Registrar

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1.The Additional Chief Secretary
to Government of Tamil Nadu,
Land Reforms and Land Administration,
Chepauk, Chennai.

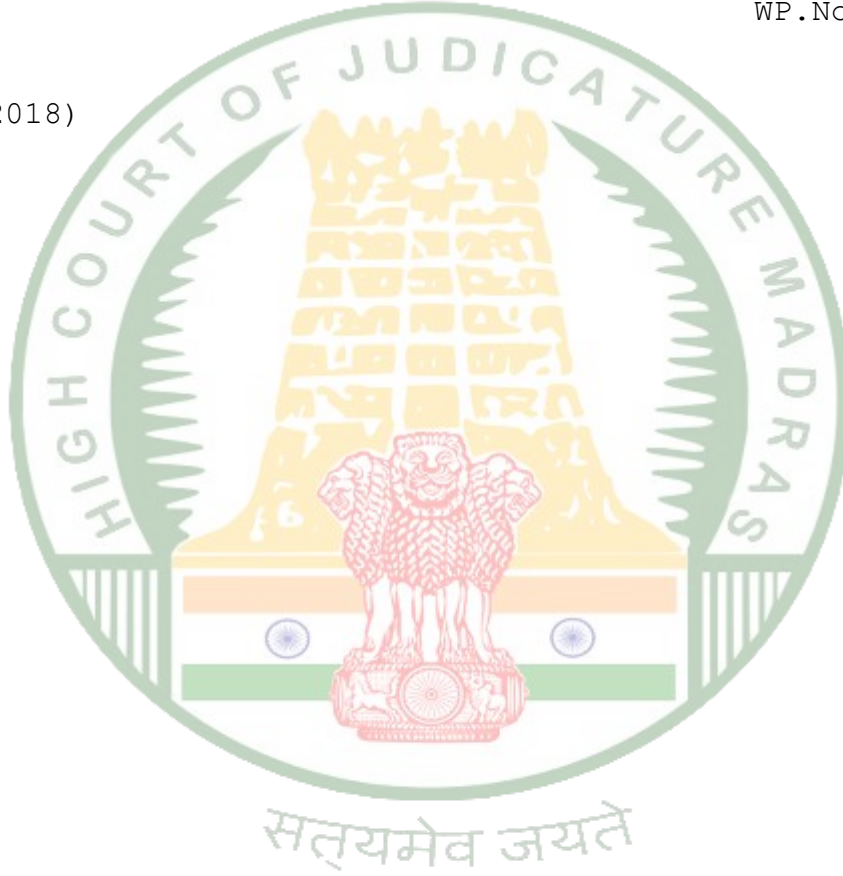
2.The District Collector,
Krishnagiri District.

3.The Tahsildar,
Uthangarai Taluk,
Krishnagiri District

+1cc to Mr.K.Thiruvengadam, Advocate SR.No.86960
+1cc to Government Pleader SR.No.87673

WP.No.31775/2017

GJ(CO)
GN(10/01/2018)



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