

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 15.09.2017

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

WP.No.24785/2017

P.Varadharaj

Petitioner

Versus

1.The District Collector
Krishnagiri District, Krishnagiri.

2.The Tahsildar
Uthangarai Taluk
Uthangarai, Krishnagiri District.

3.The Revenue Officer,
Kallavi, Uthangarai Taluk,
Krishnagiri District.

Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondents to consider the petitioner's representation dated 11.09.2017 and do not seize any articles and vacate the petitioner in agriculture Pathai Poramboke land, S.No.38, Veerachikuppam Village, Uthangarai Taluk, Krishnagiri District, till the disposal of the appeal by the 1st respondent.

For Petitioner : Mr.M.P.Saravanan

For R1 to R3 : Mr.A.N.Thambidurai, Spl.GP

ORDER

[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 respondents.

2 The petitioner claims that he is a resident of Veerachikuppam village, Uthangarai Taluk, Krishnagiri District and he and his family are doing agricultural operations within the "Pathai Poramboke land" [Pathway Poramboke land] in S.No.38 of the said village for the past 80 years and he is also paying all taxes every year. The petitioner would further aver that to his shock and surprise, he was issued with a notice under section 7 of the Tamil Nadu Land Encroachment Act, 1905, and in response to the same, he has submitted his representation dated 11.09.2017 to the 3rd respondent and his apprehension is that without following due process of law, he is likely to be evicted and hence, came forward to file the present writ petition.

3 The learned counsel for the petitioner would submit that under normal circumstances, notice issued under section 7 of the Tamil Nadu Land Encroachment Act, 1905, is to be followed by the notice under section 6 of the said Act and since the petitioner is under apprehension that he is likely to be evicted without recourse to due process of law, he is constrained to approach this Court, by filing the present writ petition.

4 Per contra, Mr.A.N.Thambidurai, learned Special Government Pleader appearing for the respondents would submit that due process of law under the provisions of the above said Act will be followed.

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

6 This Court, taking into consideration the above facts and circumstances, directs the respondents to follow due process of law contemplated and mandated under the Tamil Nadu Land Encroachment Act, 1905, and after providing sufficient and reasonable opportunity to the petitioner, shall take action in accordance with law and communicate the decision taken, to the petitioner and till such time, the respondents shall not dispossess the petitioner. It is also made clear that the petitioner, till action is initiated on the part of the respondents is completed, shall not create any third party rights in respect of the land in question and shall not commit any further encroachment.

7 The writ petition stands disposed of with the above direction. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

AP

To

1.The District Collector
Krishnagiri District, Krishnagiri.

2.The Tahsildar
Uthangarai Taluk
Uthangarai, Krishnagiri District.

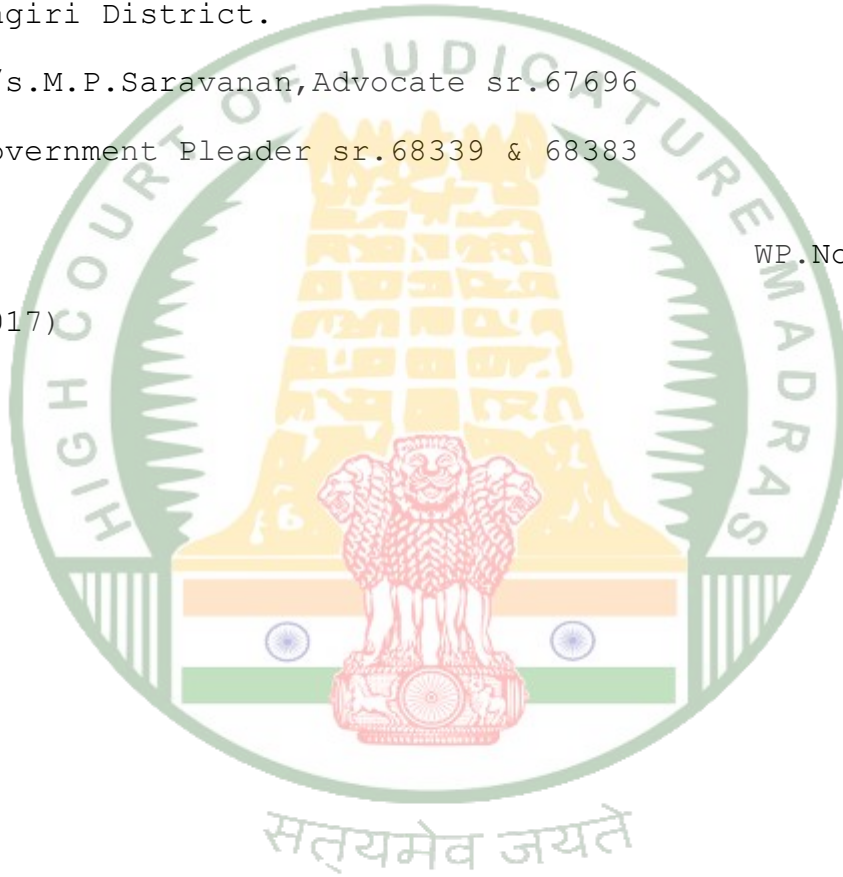
3.The Revenue Officer,
Kallavi, Uthangarai Taluk,
Krishnagiri District.

+1CC TO M/s.M.P.Saravanan, Advocate sr.67696

+2cc to Government Pleader sr.68339 & 68383

WP.No.24785/2017

ss(19/9/2017)



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