

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2017

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.25879 of 2017

P.Sasikumar

... Petitioner

vs.

The Commissioner,
Anakkaputhur Municipality,
Kancheepuram District,
Chennai - 70.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus, forbearing the respondent from interfering with the peaceful possession and occupation of the property in S.No.309 at No.14, Ramalinga Madam Street, Anakaputhur, without following the due process of law.

For Petitioner : Mrs.D.Geetha
For Respondent : Mr.P.Srinivas

O R D E R

The petitioner has come up with this Writ Petition seeking to forbear the the respondent from interfering with the peaceful possession and occupation of the property in S.No.309 at No.14, Ramalinga Madam Street, Anakaputhur.

2. The case of the petitioner is that he is residing in the thatched house property in question for more than 20 years, which was inherited from his ancestors and that he is paying property tax, water tax, etc and electricity connection also stands in his name. The grievance of the petitioner is that on 12.08.2017, the employees of the respondent/Municipality tried to evict him without any notice. Though the petitioner made a representation to all the higher authorities against the action of the respondent, there is no response and hence, he is constrained to approach this Court.

3. Respondent has filed counter, denying the averments of the petitioner. It is stated that the claim of the petitioner regarding the possession and enjoyment of the thatched structure in S.No.309 does not tally with Door No.14, Ramalingam Madam Street. Further, the said Door Number is not in the name of the petitioner and it is a proper House built with AC Sheet Roofing that is vested with one Manjula and the relevant property tax also stands in her name. On the other hand, the thatched structure though claimed to be situated in S.No.309, was

actually found in S.No.254.

4. It is further stated in the counter affidavit that the land in Survey No.309, is a land that is vested along S.No.254 with the Government and S.No.254 is stated as "Vettu Pallam", which means Quarry site. S.No.309, which has been sub-divided into three, is set out as S.No.309/1, classified as 'Kal maduvu' (water stagnated in rocky depression) and two Grama Natham sites in S.No.309/2 containing Ayothiamman Temple, 309/3-Grama Natham, having a Hostel for SC/ST Girls under the State Backward Classes Welfare Department, also the Municipal Office, Vehicle parking shed of the Municipality and the Municipal Slaughter House, apart from Community Hall, which is under construction.

5. Heard the learned counsel on either side and perused the material documents available on record.

6. Admittedly, the petitioner has not produced any document to show that the property in question is an ancestral property and belongs to him. The petitioner ought to have produced atleast the document, which is registered in the Sub-Registrar Office to establish that the property in question is an ancestral property. Even in the documents produced by the respondent and in the counter affidavit, there is no reference that the property in question belongs to the petitioner.

7. As there is a disputed question of fact, I find no reason to grant the relief sought by the petitioner. However, it is open to the petitioner to approach the appropriate civil forum and establish his case. Even though the petitioner has produced the Will said to have been executed by his father and there is a judgment and decree of the District Munsif Court, Alandur in O.S.No.576 of 2007, the genuineness of the Will has to be ascertained only by the appropriate Civil Court.

The Writ Petition stands dismissed with the above observation. No costs.

Sd/-

Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

(aeb)

To:

The Commissioner,
Anakkaputhur Municipality,
Kancheepuram District,
Chennai - 70.

+1cc to Mr.D.Geetha, Advocate, S.R.No.84279

+1cc to Mr.P.Srinivas, Advocate, S.R.No.84900

W.P.No.25879 of 2017

RRK(18/12/2017)