

IN THE HIGH COURT OF JUDICIATURE AT MADRAS

DATED : 19.09.2017

CORAM

THE HON'BLE MR.JUSTICE M.SATHYANARAYANAN
and
THE HON'BLE MR.JUSTICE N.SESHASAYEE

W.P.No.14341 of 2009

K.V.Jayaraman

... Petitioner

... Vs ...

1. The District Collector,
Krishnagiri District, Krishnagiri.
2. The Tahsildar
Denkanikottai Taluk, Krishnagiri District.
3. The Kelamangalam Town Panchayat (Selection Grade)
Rep. by President
Kelamangalam Village,
Krishnagiri District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, forbearing the respondents or agent or subordinates or any other man, removing the petitioner from the peaceful possession and enjoyment of the his dwelling house at Door No.8/23, Anna Nagar, 8th Ward, Kelamangalam Village, in Survey No.513/2A, 1A Keelamangalam Village, Denkanikottai Taluk.

For Petitioner : Mr.K.Gandhikumar

For Respondents : Mr.A.N.Thambidurai
Special Govt.Pleader

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O R D E R

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

The petitioner in the affidavit filed in support of the writ petition would aver among other things that he along with his family are residing in the premises bearing Door No.8/23, Anna Nagar, 8th Ward, Kelamangalam Village, Denkanikottai Taluk,

Krishnagiri District, for the past 20 years and according to him, there is a superstructure built up on the house site measuring 517 1/2 sq.ft in Survey No.513/2A, 1A of the said village. It is also provided with electricity service connection.

2. The petitioner would further aver that he submitted an application to the first respondent for grant of patta in respect of the land ad measuring 0.12 sq.mtr in the said survey number and after full fledged enquiry, the second respondent had issued assignment order in his favour in H.S.D. No.6/1405 dated 31.05.1996 and it is the specific claim of the petitioner that he is in possession and enjoyment of the property without any interruption.

3. The grievance expressed by the petitioner is that on 09.07.2009, the respondents 1 and 2 had visited the Kelamangalam area and gave oral notice to all the residents and also started marking certain portions, as if the petitioner and other residents had encroached upon road poramboke. The petitioner, immediately, approached the first respondent in person on 10.07.2009 and shown all the records with a request not to disturb his possession and also give him an opportunity to put forth his case. However, without responding to the same, the respondents 1 and 2 called upon the petitioner to vacate and deliver possession of the land in question. Fearing dispossession without due process of law, he came to file this writ petition.

4. The writ petition was entertained on 27.07.2009 and an interim order was also granted not to disturb the possession of the petitioner, which has been ordered to be continued until further orders, vide order dated 28.08.2009. The writ petition was listed for final hearing on 08.09.2017 and Mr.P.Sanjay Gandhi, learned Additional Government Pleader took time to get instructions.

5. When the matter is listed today, Mr.A.N.Thambidurai, learned Special Government Pleader appearing for the respondents would submit that despite communication sent, no response is forthcoming.

6. It is well settled position of law that possession of the assignment holder cannot be disturbed without recourse to law, unless and until, conditions of the assignment are violated. The petitioner has specifically pleaded about the threat of dispossession in paragraphs 5 and 6 of the affidavit filed in support of the writ petition without resorting to the process of law. The respondents did not file counter, despite a lapse of nearly 8 years.

7. Though the petitioner prayed for a larger relief, this Court, in the light of the above facts and circumstances, without going into the merits of the claim projected by the petitioner, directs the respondents 1 and 2 not to disturb the peaceful possession and enjoyment of the petitioner in respect of the site ad measuring to an extent of 0.12 sq.mtr in Survey No.513/2A.1A of Keelamangalam Village, except under due process of law.

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

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Krishnagiri District, Krishnagiri.
2. The Tahsildar
Denkanikottai Taluk, Krishnagiri District.
3. The President
The Kelamangalam Town Panchayat (Selection Grade)
Kelamangalam Village,
Krishnagiri District.

+1cc to Mr.K.Gandhikumar, Advocate, S.R.No.68218
+1cc to the Government Pleader, S.R.No.69502

W.P.No.14341 of 2009

SR(CO)
CS/26/10/17

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