

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
W.P.No.16030 of 2007

M.Thangavel

... Petitioner

Vs.

1. The District Collector,
Namakkal District,
Namakkal.
2. The Tahsildar,
Rasipuram Taluk,
Rasipuram,
Namakkal District.
3. The Block Development Officer,
Vennandhur,
Namakkal District.
4. The District Project Co-ordinator,
Namakkal.
5. The Regional Project Co-ordinator,
Vennandhur Panchayat Union,
Vennandhur,
Rasipuram Taluk,
Namakkal District.
6. The President,
R.Pudupalayam Panchayat,
R.Pudupalayam Post,
Rasipuram Taluk,
Namakkal District.
7. The Head Master,
Panchayat Union Primary School,
Sanaar Pudur,
Rasipuram Taluk,
Namakkal District.
8. Natesa Konar

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of mandamus, directing respondents 6 to 8 not to encroach the property of the petitioner by constructing any structure in Survey No.59/43, Patta No.410, situated at R.Pudupalayam Village, Rasipuram Taluk, Namakkal District.

For Petitioner : Mr.P.Rathnavel
For Respondents 1, 2 & 4 : Mr.R.Venkatesh,
Government Advocate
For 3rd Respondent : Mr.K.Elango
For 6th Respondent : Mr.O.Selvam,
Government Advocate
For Respondents 5, 7 & 8 : No appearance

O R D E R

The petitioner has come up with this Writ Petition seeking a direction to respondents 6 to 8 not to encroach his property in Survey No.59/43, Patta No.410, situated at R.Pudupalayam Village, Rasipuram Taluk, Namakkal District, by constructing any structure.

2. According to the petitioner, his father constructed a tiled house in the Village Natham land in Old Survey No.59/7, situated at R.Pudupalayam Village and was in peaceful possession and enjoyment of the property. Considering the long standing possession of the Village Natham property, the Special Tahsildar granted Patta bearing No.410 to the petitioner's father in the year 1991. After the death of his father, the petitioner and his mother have been living in the said tiled house without any hindrance and the Tashildar granted assignment of the land to an extent of 433 sq. ft. in S.No.59/43 in favour of the petitioner's mother vide proceedings dated 26.06.1996.

3. It is the case of the petitioner that from the year 2004 onwards, the Panchayat Union Primary School authorities with the help of the Panchayat President attempted to encroach upon his property under the pretext of constructing Water Tank, Toilets, etc. to the School. Despite several representations to the official respondents, requesting them to prevent the encroachment, no action has been taken so far. Hence, the present Writ Petition.

4. According to the official respondents, the land allotted to the petitioner's mother in S.No.59/43 has been cancelled and vested with another person and that assignment was

also cancelled and it was allotted to the 7th respondent/Panchayat School. It is their case that once there is an assignment, the building has to be constructed within 12 months. Since the petitioner did not construct any building in the land in Survey No.59/43, assignment made to the said land was cancelled. According to the official respondents, at no point of time, they have passed an order with regard to the property situated vide Patta No.410, that belongs to the petitioner's father.

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

6. As the petitioner has confined his relief only with regard to Patta No.410 and that the respondents have not disturbed the possession of the petitioner in S.No.59/41, the relief sought by the petitioner that the possession of the property measuring an extent of 433 sq. ft. in Survey No.59/43 allotted to his mother is being interfered with, cannot be entertained, as the property in Survey No.59/43 is being allotted to some other person.

7. However, considering the facts and circumstances of the case, the 2nd respondent herein is directed to furnish within thirty days, a copy of the cancellation of the Allotment Order issued to the petitioner's mother and the Allotment Order granted to the other person, in respect of the property in Survey No.59/43, which, thereafter, has been vested with the Panchayat School.

The Writ Petition is dismissed with the above direction and observation. No costs. Consequently, connected M.P.No.1 of 2007 is closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

(aeb)

To:

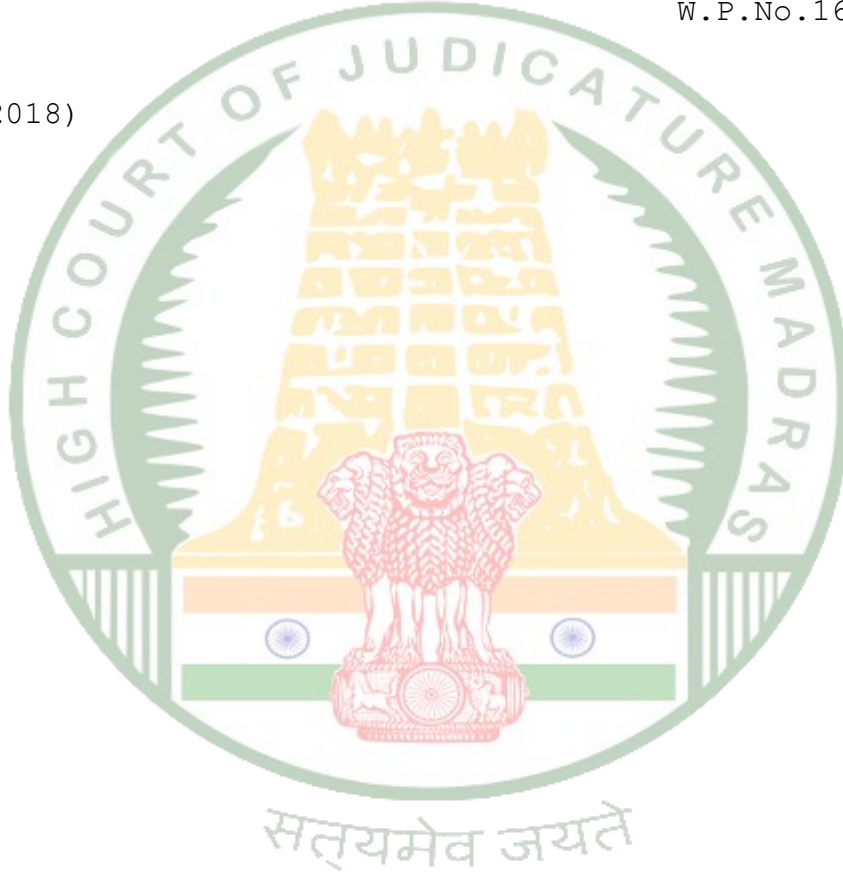
1. The District Collector, Namakkal District, Namakkal.
2. The Tahsildar, Rasipuram Taluk, Rasipuram, Namakkal District.

3. The Block Development Officer, Vennandhur, Namakkal District.
4. The District Project Co-ordinator, Namakkal.
5. The Regional Project Co-ordinator, Vennandhur Panchayat Union, Vennandhur, Rasipuram Taluk, Namakkal District.

+1cc to the Government Pleader, S.R.No. 92114

Order in
W.P.No.16030 of 2007

TR(18/01/2018)



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