



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 29.08.2017

CORAM :

WEB COPY

**THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

W.P(MD)No.19309 of 2014

&

M.P(MD)No.1 of 2014

and

W.P(MD)No.24120 of 2016

W.P(MD)No.19309 of 2014 :

A.Udayappan

... Petitioner

Vs.

1.The Additional Chief Secretary,
Commissioner of Land Administration,
Chepauk, Chennai - 600 005.

2.The District Revenue Officer,
Sivagangai District.

3.U.Arumugam

4.P.Chinna Karuppan

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for the records relating to the proceedings of the order date 06.10.2014 in D.Dis.K4-36189-2010 on the file of the first respondent and quash the same.

For Petitioner : Mr.G.Prabhu Rajadurai

For Respondents : Mr.M.Govindan,

Special Government Pleader for RR 1 & 2

Mrs.Krishnaveni, Senior Counsel
for Mr.A.Sankar Ganesh for R3

W.P(MD)No.24120 of 2016 :

A.Jegarajan

... Petitioner

Vs.



1.The District Collector cum
District Level Steering Committee,
Sivagangai District.

2.The District Revenue Officer,
Sivagangai.

3.The Sub Collector cum Appellate Committee,
Devakottai.

4.The Tahsildar cum Taluk Committee,
Karaikudi.

5.A.Udaiyappan ... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the third respondent in Mu.Mu.A3/8126/2015 dated 18.04.2016 quash the same and direct the third respondent to remove/evict the encroachment of Government land in Survey No.324/1, Manachai Village, Kothari Group, Karaikudi Taluk, Sivagangai District.

For Petitioner : Mr.Arun Swaminathan
for M/s.Chettinad Legal Solutions

For Respondents : Mr.M.Govindan,
Special Government Pleader for RR 1 to 4
Mr.G.Prabhu Rajadurai for R5

O R D E R

(Order of the Court was made by G.R.SWAMINATHAN, J.)

The writ petitioner in WP(MD)No.19309 of 2014 challenges the order dated 06.10.2014 in D.Dis.K4/36189/2010 passed by the Commissioner of Land Administration, Chennai. The said writ petitioner is figuring as fifth respondent in WP(MD)No.24120 of 2016.

2.WP(MD)No.24120 of 2016 is for quashing the order dated 18.04.2016 passed by the third respondent and for directing the third respondent to clear the encroachments in Survey No.324/1, Manachai Village, Kothari Group, Karaikudi Taluk, Sivagangai District.



3. Heard the learned counsel for the parties.

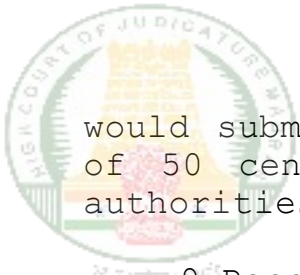
4. The issue pertains to the character of the land bearing Survey No.324/1 measuring 0.20.34 Hectare in Manachai Village, Kothari Group, Karaikudi Taluk. According to the writ petitioner in WP(MD)No.19309 of 2014, the said land was part of Jamin village and that it absolutely belonged to their family. However, the father of the fourth respondent in the said writ petition managed to obtain patta in his name. Seeking cancellation of the said patta, the writ petitioner moved the Revenue Divisional Officer, Devekottai who passed an order in their favour on 24.09.1997. This was taken on revision before the District Revenue Officer, Sivagangai, who confirmed the order passed by the Revenue Divisional Officer, Devakottai. Thereafter, the second revision was preferred before the Commissioner of Land Administration who by order dated 06.10.2014 set aside the proceedings of the Revenue Divisional Officer and remanded the matter to the District Revenue Officer for fresh enquiry and orders. Aggrieved by the said order dated 06.10.2014, the present writ petition has been filed.

5. Heard Mr.G.Prabhu Rajadurai, learned counsel appearing for the writ petitioner in WP(MD)No.19309 of 2014 and Mrs.Krishnaveni, learned Senior Counsel appearing for Mr.A.Sankar Ganesh for the third respondent and the learned Special Government Pleader appearing for the official respondents.

6. It was fairly submitted by the counsel on either side that the matter could be remitted to the file of the District Revenue Officer, Sivagangai for fresh enquiry and passing of orders.

7. The District Revenue Officer, Sivagangai is directed to take up the matter afresh and enquire into the same and after giving opportunity to the contesting parties, pass orders in accordance with law without in any manner being influenced by any of the observations or findings rendered in the order dated 06.10.2014 passed by the Commissioner of Land Administration, Chennai. WP(MD)No.19309 of 2014 is accordingly disposed of. Consequently, connected miscellaneous petition is closed. No costs.

8. The order impugned in WP(MD)No.24120 of 2016 is to the effect that action can be taken only if the final orders are passed pursuant to the order of the remand made by the Commissioner of Land Administration vide order dated 06.10.2014. This order is perfectly justified and no interference is called for. However, Mr.G.Prabhu Rajadurai, learned counsel for the fifth respondent would fairly state that their claim of ownership in Survey No.324/1 is contained to 50 cents and that they do not have any claim over and above the same. In other words, the contesting respondent in WP(MD)No.24120 of 2016



would submit that if any encroachment is found beyond the extent of 50 cents claimed by them, the same can be removed by the authorities.

9. Recording the said submission, WP(MD)No.24120 of 2016 is also disposed of. No costs.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub-Assistant Registrar

To

- 1.The Additional Chief Secretary,
Commissioner of Land Administration,
Chepauk, Chennai - 600 005.
- 2.The District Collector cum
District Level Steering Committee,
Sivagangai District.
- 3.The District Revenue Officer,
Sivagangai District.
- 4.The Sub Collector cum Appellate Committee,
Devakottai.
- 5.The Tahsildar cum Taluk Committee,
Karaikudi.

+One cc to M/s.K.N.Govardhnan, Advocate, SR.No.75289

+One cc to M/s.Shankar Ganesh, Advocate, SR.No.75183

+One cc to Mr.G.Prabhu Rajadurai, Advocate, SR.No.75327

+One cc to M/s.RM.Arun Swaminathan, Advocate, SR.No.75184

skm/Arul

RL/10C/4P/MR/KKR/SAR1/12/10/2017

W.P(MD)No.19309 of 2014

&

M.P(MD)No.1 of 2014

and

WP(MD)No.24120 of 2016