



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No. 4091 of 2014
and
WMP.(MD)Nos. 1 & 2 of 2014

Thangamuthammal

.. Petitioner

Vs.

1. The Assistant Divisional Engineer,
Highways and Rural Works,
Radhapuram, Tirunelveli District.

2. The Junior Engineer,
Hgihighways, Radhapuram,
Tirunelveli District.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorari calling for the records relating to the Impugned notice of the 1st Respondent dated 25.02.2014 and to quash the same.

For petitioner : Mr.J.Ashok

For Respondents : Mr.T.S.Mohamed Mohideen
Additional Government Pleader

O R D E R

[Order of the Court was made by G.R.SWAMINATHAN, J.]

The writ petitioner challenges the order dated 25.02.2014, issued by the first respondent herein. The first respondent passed the impugned order calling upon the writ petitioner to vacate the premises in question, which is located in Village Survey No.302/2 Erumaikulam Village, stating that the land belongs to the Highways department.

2. The contention of the writ petitioner is that she had already applied to the Thasildhar, Radhapuram, seeking issuance of



patta. The writ petitioner had moved this Court on earlier occasions, when the respondents herein attempted to evict the writ petitioner from the house site in the very same Survey number. In the said writ petition, this Court directed the Thasildhar, Radhapuram, to favourably consider her request for issuance of patta and restrained the respondents herein from evicting the writ petitioner till the conclusion of the patta proceedings.

3. Since the subject land is a Highways property, it is not open to the said Thasildhar, Radhapuram, to grant patta on his own. As a result, her application continues to be pending. When this Court had already directed the respondents herein not to evict the writ petitioner till the conclusion of the patta proceedings, it is not open to the first respondent to pass the impugned order.

4. On the ground that the order passed by the first respondent is not in conformity with the order dated 28.11.2008 passed by this Court in WP(MD)No.9417 of 2007, the order impugned in the present writ petition is set aside. However, it is made clear that the Thasildhar, Radhapuram cannot indefinitely keep the application submitted by the writ petitioner for issuance of patta pending.

5. The Thasildhar, Radhapuram, is directed to pass final orders on the application submitted by the writ petitioner for grant of patta to her house site, after ascertaining the view of the Highways authority/respondents herein. The Thasildhar, Radhapuram, is given two months time to dispose of the writ petitioner's application said to be pending with the said authority. If the Thasildhar, Radhapuram, issues patta in favour of the writ petitioner, the question of the first respondent herein, passing a fresh eviction order will not arise. If the Thasildhar, Radhapuram, rejects the writ petitioner's application for grant of patta, it is open to the first respondent herein to pass fresh orders on merits and in accordance with law, after issuing notice to the writ petitioner.

6. This writ petition is allowed as indicated above. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (AE)

/True Copy/

Sub Assistant Registrar



To

1. The Assistant Divisional Engineer,
Highways and Rural Works,
Radhapuram, Tirunelveli District.

2. The Junior Engineer,
Highways, Radhapuram,
Tirunelveli District.

3. The Thasildhar,
Radhapuram,
Tirunelveli District.

+ 1 CC TO Mr.J.ASHOK, ADVOCATE IN SR No. 71157

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 71642

RMK/DAS

TE/MR-KKR/SAR-IV : 09/10/2017 : 3P/6C

ORDER MADE IN
W.P.(MD)No. 4091 of 2014 and
WMP.(MD)Nos. 1 & 2 of 2014
07.08.2017