



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 29.06.2017
CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM
and
THE HONOURABLE MR.JUSTICE N.AUTHINATHAN

W.P (MD) No.11985 of 2017
and W.M.P (MD) Nos.9210 & 9211 of 2017

K.Muthaiah @ Durai .. Petitioner

Vs.

The Zonal Deputy Tahsildhar,
Karaikudi Taluk,
Sivagangai District. .. Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned notice dated 16.05.2017 on the file of the respondent and quash the same as illegal.

For Petitioner : Mr.T.Kumar

For Respondent : Mr.T.S.Mohammed Mohideen,
Additional Government Pleader.

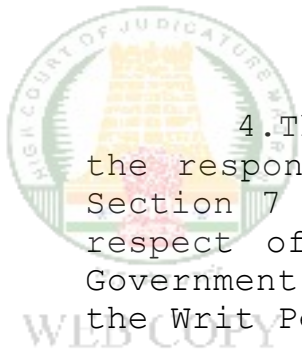
ORDER

[Order of the Court was made by A.SELVAM, J.]

This Writ Petition has been filed under Article 226 of the Constitution of India praying to call for records relating to the impugned notice dated 16.05.2017 alleged to have been issued by the respondent and quash the same, by way of issuing a Writ of Certiorarified Mandamus.

2.Mr.T.S.Mohammed Mohideen, learned Additional Government Pleader, has taken notice for the respondent.

3.The learned counsel appearing for the petitioner has contended to the effect that the land of the petitioner is situate in Survey No.404/13 and even without measuring the said survey number and also Survey No.404/1, the respondent has issued impugned notice and in fact the respondent has fixed boundary in Survey No.404/13 and since the notice issued by the respondent is defective, the same is liable to be quashed.



4.The learned Additional Government Pleader appearing for the respondent has represented that notice has been issued under Section 7 of the Tamil Nadu Land Encroachment Act, 1905, only in respect of Survey No.404/1 and the same has been classified as Government Poramboke pathway and therefore the relief sought in the Writ Petition cannot be granted.

5.It is an admitted fact that the petitioner is not having any tangible interest in Survey No.404/1 and the same has been classified as Government Poramboke pathway.

6.The main contention putforth on the side of the petitioner is that the land of the petitioner is situate in Survey No.404/13 and without measuring both the survey numbers, the impugned notice has been issued.

7.It is seen from the records that both the survey numbers are contiguous. Since the main contention raised on the side of the petitioner is that he has not encroached Survey No.404/1 and since the land of the petitioner comprised in Survey No.404/13 is abutting Survey No.404/1, this Court is inclined to pass the following order.

8.In fine, the respondent is directed to conduct proper survey in respect of Survey No.404/1 and if there is any encroachment, proceed with the impugned notice as per law.

9.With the above observation, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(Writs)

/True Copy/

Sub-Assistant Registrar

To

The Zonal Deputy Tahsildhar,
Karaikudi Taluk,
Sivagangai District.

+One cc to Mr.T.Kumar, Advocate, SR.No.62659

+One cc to The Special Government Pleader, SR.No.62857

ps

RL/4C/2P/KP/SAR1/6/7/2017