



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

and

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P (MD) No.16079 of 2017

and

W.M.P. (MD) .No.12753 of 2017

K.Pandian

.. Petitioner

Vs.

1. The District Collector,
Dindigul District,
Dindigul.

2. The Tahsildar,
Vedasandhur Taluk,
Dindigul District.

3. Sankar Working as
Revenue Inspector,
Ayyalur Firka,
Vedasandhur Taluk,
Dindigul District.

4.Thangavelu
5.Karuppasamy
6.Malayandi
7.Krishnan

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records in pursuant to the impugned order issued by the 2nd respondent dated 16.08.2017, which was affixed in the petitioner's house on 21.08.2017 and quash the same and consequently forbearing the respondents and their subordinates or agents in any manner from disturbing petitioner's peaceful possession and enjoyment of his land in Survey No.318 by converting the Odai situated in Survey No.319 as Cart Track in Mamarathupatti, Sukkampatti Village, Vedasandhur Taluk, Dindigul District.

For petitioner : Mr.J.Parekhkumar

For R1 and R2 : Mr.M.Govindan
Special Government Pleader

**ORDER**

[Order of the Court was made by **K.K.SASIDHARAN, J.**]

The challenge in this writ petition is to the notice dated 16.08.2017 issued by the second respondent calling upon the petitioner to remove the encroachment failing which, it has been indicated that the encroachment would be removed summarily.

2. According to the petitioner, he is in possession and enjoyment of the land in Survey No.318 in Mamarathupatti, Sukkampatti Village, Vendasandhur Taluk, Dindigul District. The second respondent under the guise of evicting the encroachment in Survey No.319/2, issued the impugned notice.

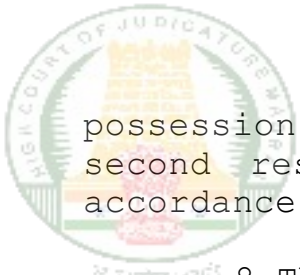
3. It is the case of the petitioner that his property is confined to Survey No.318 and he is not in occupation of the land in Survey No.319/2.

4. The notice issued by the second respondent does not contain any indication that survey of the land was under taken in the presence of the petitioner. Moreover, the petitioner filed a civil suit in O.S.No.153 of 2015 before the District Munsif Court, Vendasandhur, for the relief of permanent injunction. In the said suit, he claimed right only in respect of the land in Survey No.318. The petitioner wanted the property in Survey No.319 to be reserved as Odai.

5. After hearing the learned counsel for the petitioner and the learned Special Government Pleader appearing on behalf of the respondents 1 and 2, we are of the view that the interest of justice would be sub-served by remitting the matter to the Tahsildar for fresh consideration.

6. In the result, the impugned notice dated 16.08.2017, is set aside and the matter is remitted to the second respondent for fresh consideration.

7. The second respondent is directed to issue notice to the petitioner and thereafter survey the land in his presence. The Tahsildar should survey the land, taking into account the title deed of the petitioner and also the revenue documents. The Tahsildar should decide as to whether the petitioner is in occupation of the land in Survey No.319/2 or as to whether he is in possession of the land in Survey No.318. In case, the petitioner is in possession of the patta land in Survey No.318 only, there is no question of taking action against him for encroachment. However, it is made clear that in the event of the survey disclosing that the petitioner is in



possession of the land in Survey No.319/2, it is open to the second respondent to take appropriate action for eviction in accordance with law.

8. The writ petition is allowed with the above observation. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Dindigul District,
Dindigul.
2. The Tahsildar,
Vedasandhur Taluk,
Dindigul District.
3. Sankar Working as
Revenue Inspector,
Ayyalur Firka,
Vedasandhur Taluk,
Dindigul District.

+1cc to Mr.J.Parekhkumar, Advocate SR.No.74557
+1cc to The Spl.Government Pleader Sr.No.75066

NS

VB/MR/KKR/SAR1/11/09/2017/3P/6C

ORDER MADE IN
W.P (MD) No.16079 of 2017
and
W.M.P. (MD) .No.12753 of 2017
24.08.2017