



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.10.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.VENUGOPAL

AND

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD)No.18630 of 2017

and

W.M.P(MD)Nos.15016 and 15017 of 2017

S.Ramapandi

: Petitioner

vs.

1. The District Forest Officer,
Ramanathapuram District.

2. The Forest Range Officer,
Sayalkudi Forest Range,
Sayalkudi,
Ramanathapuram District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying this Court for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order of the second respondent vide his proceedings in Na.Ka.No.74/2017 dated 12.06.2017 and quash the same as illegal and consequently direct the respondents not to evict the petitioner and his family from his house bearing No.3/219-1, Oppilan Post, Oppilan Village, Kadaladi Taluk, Ramanathapuram District, without following due process of law.

For Petitioner

: Mr.P.T.Ramesh Raja

For Respondents

: Mr.T.R.Janarthanan,

Additional Government Pleader

O R D E R

[Order of the Court was made by **M.VENUGOPAL, J.**]

This Writ Petition has been filed seeking issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order of the second Respondent vide his proceedings in Na.Ka.No.74/2017 dated 12.06.2017 and quash the same as illegal and consequently direct the Respondents not to evict the Petitioner and his family from his house bearing Door No.3/219-1, Oppilan Post, Oppilan Village, Kadaladi Taluk, Ramanathapuram District, without following due process of law.



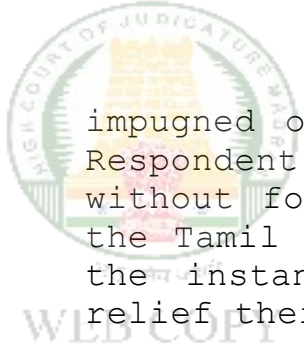
2. Heard both sides. By consent, the main Writ Petition itself is taken up for final disposal.

3. According to the Petitioner, he is in occupation of a piece of land measuring an extent of 0.0200 sq. mts. Situated at Survey No.582/1 of Oppilan Village, Kadaladi Taluk, Ramanathapuram District, around forty years back. Originally, his father had put up a thatched house in the said land. Subsequently, the thatched house was altered into a tiled house. The Petitioner is residing there for the past forty years along with his family. In fact, he had obtained electricity service connection for his house in Service Connection No.354-003-542 from TANGEDCO, Ramnad. Also that, his house has been assessed with house tax by Oppilan Panchayat (vide assessment No.487) and the Door Number was assigned as 3/219-1.

4. The stand of the Petitioner is that as on date, he is remitting the house tax in his name without any default. Further, the second Respondent had issued a show-cause notice, dated 10.05.2017 stating that the land, which is in occupation is a Reserved Forest and therefore, he was given fifteen days time to give reply to the notice explaining as to why he should not be evicted from the said land in question. In fact, the said notice was affixed on his house.

5. The main plea taken on behalf of the Petitioner is that, at the time of their occupation of the land, it was not declared as 'Reserve Forest' and the land was vested only with the local Authorities. Even at the time of declaration, their objections were not called for. As a matter of fact, the Petitioner and other occupants were unaware of the purported conversion of the land into a 'Reserve Forest'. Also that, no enquiry was conducted as per Section 6 of the Tamil Nadu Forest Act, 1882 and they have not been given any opportunity of hearing. The Petitioner had immediately approached the second Respondent and submitted the documents in support of his case and also made a representation in person before the second Respondent.

6. The grievance of the Petitioner is that the second Respondent without considering his documents and tax receipts issued by the competent Authorities had passed the impugned order dated 12.06.2017, directing him to evict from the land in question within a period fifteen days, failing which the building will be demolished and the same would be forfeited. Also that, it is the stand of the Petitioner that there is violation of principles of natural justice and the provisions of Section 68-A of the Tamil Nadu Forest Act, 1882, was not adhered to by the second Respondent. Moreover, as per Section 68-A of the Tamil Nadu Forest Act, 1882, the second Respondent had simply filled up the blanks on a pre-prepared printed format and in fact, in the said format, no survey number was furnished and in short, the



impugned order is shorn of necessary details. Since the second Respondent is taking coercive steps to evict the Petitioner without following due process of law and mandatory provisions of the Tamil Nadu Forest Act, 1882, the petitioner performed to file the instant Writ Petition before this Court seeking necessary relief thereto.

7. The Oppilan Forest Block with the Survey No.582/1A was notified under Section 4 of the Tamil Nadu Forest Act, 1882 and published in G.O.No.450 Forest and Fisheries Department, dated 30.04.1977. Later, the Forest Settlement Officer made a proclamation under Section 6 of the Tamil Nadu Forest Act, 1882 through the Ramanathapuram District Gazette No.13A, dated 19.09.1977 and three months time was given to the concerned persons to prefer rights and claims from the date of publication of proclamation in the District Gazette. In this process, 28 claim applications were received and on examination, only two claims were admitted by the Forest Settlement Officer, Sivagangai under Section 10 of the Tamil Nadu Forest Act, 1882. Subsequently, the afore stated Oppilan Forest Block in Kadaladi Taluk in Ramanathapuram District was notified as 'Reserve Forest' under Section 16 of the Tamil Nadu Forest Act, 1882 vide G.O.Ms.No.145 Environment and Forests (FR.14) Department, dated 08.12.2016.

8. The Learned Additional Government Pleader appearing for the Respondents brings it to the notice of this Court that either the Petitioner or his father had not made any application seeking claim over the land before the Forest Settlement Officer, Sivagangai. In fact, the Petitioner had provided with adequate opportunity in terms of the procedure laid down under the Tamil Nadu Forest Act, 1882. Therefore, the contra plea taken by the Petitioner is not a well founded one.

9. Per contra, the Learned Additional Government Pleader submits that the Petitioner was served with a notice in a prescribed format as per the procedure specified in Rule 2 of the Tamil Nadu Forest Lands (Eviction of Encroachments) Rules, 1981 and Section 68-A of the Tamil Nadu Forest Act, 1882, even though by mistakenly survey number was omitted to be mentioned. Indeed the Petitioner had received the said notice on the basis that he had encroached in Survey No.582/1A. In this connection, the Learned Additional Government Pleader appearing for the Respondents brings it to the notice of this Court that this Court in W.P.No.1964 of 2005 (between Ramarasu, S/o.N.A.Subbaraja vs. the State of Tamil Nadu) has passed an order on 26.04.2005 and at paragraph No.38(3) had observed the following:-

<https://hcservices.ecourts.gov.in/hcservices/> (3) **Payment of property tax, provisions of water connection or electricity by themselves cannot be**

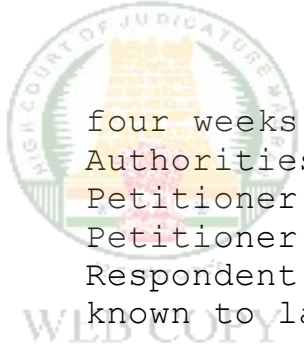


construed as conferring any dependent right, if the encroachment is otherwise unauthorised."

10. Apart from the above, it is the submission of the Learned Additional Government Pleader appearing for the Respondents that the Petitioner has produced necessary documents relating to the payment of property tax only from the year 2003 and as such, it is for the Petitioner to establish his claim before the Authorities concerned, of course, in the manner known to law and in accordance with law.

11. By way of reply, the Learned Counsel for the Petitioner projects an argument that the Petitioner was compelled/coerced to furnish a written letter of requisition, dated 04.10.2017 addressed to the second Respondent, whereby and whereunder he had stated among other things that he had removed his tile of the house under self and only the compound walls of the house were not removed and within five days, he would voluntarily remove the same. Pointing out to this letter of requisition dated 04.10.2017 made by the Petitioner, the Learned Counsel for the Petitioner vehemently points out that this letter of requisition dated 04.10.2017 was not written by the Petitioner and it was written by somebody else and only in the said requisition, the Petitioner's signature was alone obtained under threat/coercion as the case may be.

12. Considering the fact that the Petitioner disputes the very coming into existence the letter of requisition dated 04.10.2017 purportedly furnished by him before the second Respondent and in view of the fact that originally the Authorities concerned had not mentioned the survey number in the notice addressed to the Petitioner and also this Court bearing in mind the yet another pertinent fact that the Petitioner has reportedly furnished only the documents/revenue receipts thereto to the concerned Authority only from the year 2003, this Court at this stage, without traversing upon the merits of the matter and also not delving deep into the claim made by the Petitioner, in the interest of justice, fair play, directs the second Respondent to provide sufficient opportunity to the petitioner, namely one weeks time to produce all documents, which is in his possession to exhibit his claim in regard to the subject matter in issue and further, the Petitioner shall be called upon to submit his detailed remarks/objection to the impugned order of the second Respondent dated 12.06.2017 within a period of two weeks thereafter. The second Respondent shall also hear the Petitioner in person if the same requires and soon after the receipt of necessary documents from the Petitioner, who is to file the same within the time granted by this Court, the second Respondent shall advert to all the factual and legal please to be raised by the Petitioner in his fresh remarks/objections and to pass a reasoned speaking order on merits within a period of



four weeks thereafter. Till such time, it is made clear that the Authorities shall not take any coercive steps to remove the Petitioner from the land in question. It is open to the Petitioner to raise all factual and legal pleas before the second Respondent and to seek redressal of his grievances in the manner known to law and in accordance with law.

13. With the above said observation(s) and direction(s), the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

/True copy/

Sub Assistant Registrar

To

1. The District Forest Officer,
Ramanathapuram District.
2. The Forest Range Officer,
Sayalkudi Forest Range,
Sayalkudi,
Ramanathapuram District.

+ 1 CC TO MR.P.T.Ramesh Raja , ADVOCATE IN SR No.82433
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No.82298
MK/SKN/SAR-1/24.10.2017/5P/5C

ORDER MADE IN
W.P. (MD) No.18630 of 2017
10.10.2017