



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.11.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE M.VENUGOPAL
AND
THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD)No.21086 of 2017andW.M.P(MD)No.17339 of 2017

S.M.Malaiyappan

: Petitioner

.vs.

1.The District Collector,
Karur District,
Karur.

2.The Tahsildar,
Manmangalam Taluk,
Manmangalam,
Karur.

3.The Assistant Engineer,
Water Resources Department,
Public Works Department,
River Protection Section,
Karur.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying this Court for issuance of a Writ of Mandamus directing the respondents not to dispossess the Petitioner of his lawful possession of the land adjacent to Popular Mudaliar Vaikkal at Punjai Thottakurichi Village, Manmangalam Taluk, Karur District without following the due process of law.

For Petitioner
For Respondents

:M/s.AN.Ramanathan
:Mr.T.R.Janarthanan
Additional Govt.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 Mandamus directing the respondents not to dispossess the Petitioner of his lawful possession of the land adjacent to Popular Mudaliar Vaikkal at Punjai Thottakurichi Village, Manmangalam Taluk, Karur District without following the due process of law.



2. Heard both sides. No counter is filed on behalf of the respondents 1 to 3.

3. By consent, the main Writ Petition itself is taken up for final disposal.

4. According to the Petitioner, this Court in W.P(MD)No.12178 of 2012, dated 24.8.2017 filed by one M.Mahendran .vs. The District Collector, Karur District, Karur and 8 others, at paragraph 3, had observed the following:

'3. This Court therefore directs the fourth respondent to take action in accordance with law for removal of the encroachment in question. The fourth respondent shall issue notice to the encroachers and follow the statutory procedure. The entire exercise shall be completed within a period of three months from the date of receipt of a copy of this order.'

and disposed of the Writ Petition.

5. In fact, the Petitioner has sent a representation to the present Respondents 2 and 3 by Registered Post with Acknowledgement Due at 30.10.2017 and the grievance of the Petitioner is that inspite of the said representation, the Respondents are attempting to remove the purported encroachment without any notice and without following the due process of Law, as contemplated under the relevant provisions of the concerned Act. As such, the Petitioner has filed the present Writ Petition seeking for passing of an order in directing the Respondents not to dispossess the Petitioner of his lawful possession of land adjacent to Popular Mudaliar Vaikkal at Punjai Thottakurichi Village, Manmangalam Taluk, Karur District without following the due process of law.

6. At this stage, the Learned Additional Government Pleader appearing for the Respondents 1 to 3 brings it to the notice of this Court that the Second Respondent/The Tahsildar, Manmangalam Taluk, Manmangalam, Karur had communicated an Urgent Memorandum, dated 6.10.2017 addressed to the Circle Deputy Inspector, Manmangalam, The Zonal Deputy Tahsildar, Manmangalam, The Taluk Revenue Surveyor, Pughazhur and the Village Administrative Officer, Punjai Thottakurichi Village, making a request to measure the concerned portion of land to identify the encroachments in question at Thalavaipuram Popular Vaikkal, Punjai Thottakurichi Village, Manmangalam within one week a report with a Field Map to be prepared by the Circle Deputy Inspector and also to submit a report containing the details of encroachers etc. It is reported that only after measurement of the lands encroached, purported/alleged encroachments made by the concerned persons, encroachers will be issued with necessary notice or they will be informed well in advance about the encroachments and subsequently necessary action



will be taken by the concerned Revenue Officials. It is the contention of the Learned Additional Government Pleader appearing for the Respondents 1 to 3 that the present Writ Petition is a pre-matured one.

7. Repelling the contention advanced on behalf of the Respondents 1 to 3, the Learned Counsel for the Petitioner submits that the Petitioner will be satisfied if the Petitioner is provided with requisite opportunity to air his grievance or to put forward his objection in writing before the concerned authority in regard to the removal of encroachment, which is the subject-matter in issue.

8. Considering the fact that the Second Respondent had addressed an Urgent Memorandum, dated 6.10.2017 afore-stated to the concerned Circle Deputy Inspector, Manmangalam and three other Revenue Officials to measure the lands and also to identify the concerned encroachers etc., this Court, at this stage, simpliciter, directs the Respondents 2 and 3 to consider the representation of the Petitioner to be submitted by him within a period of ten days from the date of receipt of a copy of this order and at the time of passing of final orders in regard to the removal of encroachment, is to take into account the representation and pass a reasoned speaking order within a period of three weeks thereafter. Till the final orders are passed by the Respondents 2 and 3, the Petitioner's possession in the subject-matter land shall not be disturbed by any one.

9. 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 (Crl. Side)

/True Copy/

Sub-Assistant Registrar

To

1. The District Collector, Karur District, Karur.

2. The Tahsildar, Manmangalam Taluk,
Manmangalam, Karur.

3. The Assistant Engineer,
Water Resources Department,
Public Works Department,
River Protection Section, Karur.

+One cc to Mr. AN. Ramanathan, Advocate, SR.No.87420

vsn

RL/5C/3P/KK/SAR1/29/11/2017

ORDER MADE IN

W.P. (MD) No. 21086 of 2017

and

W.M.P (MD) No. 17339 of 2017

15.11.2017 (12/13)