



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.12.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.VENUGOPAL
AND
THE HONOURABLE MRS.JUSTICE R.THARANI

W.P.(MD)No.22509 of 2017
and
W.M.P(MD)No.18803 of 2017

1.P.Sugumar
2.S.Manimegalai

: Petitioners

.vs.

1.The District Collector,
Dindigul District,
Dindigul.

2.The Tahsildar,
Athoor Taluk Office,
Athoor,
Dindigul District.

3.The Block Development Office,
Athoor Block Development Office,
Sempatti,
Dindigul 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 relating to the 3rd Respondent's impugned notice through his proceedings in **ந.க.எண் 2312/17/பி2 நாள் 20.11.2017** insofar as it relates to removing the encroachment at Dindigul District, Athoor Panchayat Union, Alamarathupatti Panchayat, Survey No.167/1 and quash the same as illegal and consequently direct the 2nd respondent to issue free patta for a property, which is used by the Petitioners for more than 14 years by considering their Representation dated 25.09.2017.

For Petitioners

: Mr.M.Solaisamy

For R-1 & R-2

: Mr.T.R.Janarthanan,
Additional Government Pleader



O R D E R

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

The Petitioner has preferred the instant Writ Petition praying for passing of an order by this Court in calling for the records relating to the Third Respondent's impugned notice through his proceedings in **ந.க.எண் 2312/17/மீ2 நாள் 20.11.2017** insofar as it relates to removal of encroachment in Survey No.167/1 at Alamarathupatti Village, Athoor Panchayat Union, Dindigul District and quash the same as illegal and consequently direct the Second Respondent to issue free patta for the property, which is used by the Petitioners for more than 14 years by considering their Representation dated 25.09.2017.

2.Heard both sides. No Counter-affidavit is filed on behalf of R-1 to R-3.

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

4.According to the Petitioners, they purchased a house site property on 09.07.2004 from one Rajammal of Alamarathupatti Village, (vide Document No.2105/2004, Sub-Registrar Office, Nagalnayakkanpatti) and from the date of purchase, they are in absolute possession and enjoyment of the property. They had put up a house in the aforesaid property in Old No.3-84, New No.3-168, Alamarathupatti Panchayat. The Petitioners planted some Crotons and Flower Plants in front of their house. There is a piece of natham land between their house and the street. That apart, the said natham land is in their enjoyment for about 14 years. Hence, on 25.09.2017, the Petitioners projected an Application before the Second Respondent/Tahsildar, Athoor Taluk, Dindigul District, seeking issuance of free patta for the said natham land. Knowing about this, some persons had induced the Third Respondent/Block Development Officer, Athoor Block Development Officer, Sempatti, Dindigul District, to remove the Petitioners' compound wall and in fact, the Third Respondent without making any enquiry had issued the impugned notice dated 20.11.2017.

5. The grievance of the Petitioners is that although the had approached the Third Respondent in person stating that sufficient time may be given, because of the reason that they had already approached the Second Respondent for issuance of free patta, the Third Respondent had not considered the request and is now proceeding further to remove their compound wall.

6. At this stage, the Learned Counsel for the Petitioners <https://hse.mca.gov.in/india/services/> the impugned notice dated 20.11.2017 of the Block Development Officer, Athoor Block Development Office, Sempatti, Dindigul District, addressed to the Petitioners, suffers from



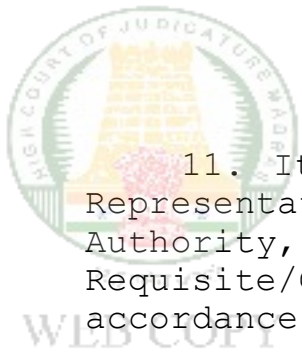
legal infirmity because of the simple fact that the impugned notice, simpliciter, requires the Petitioners to appear on 07.12.2017 at 11.00 a.m., with necessary documents and further, they were informed that on 07.12.2017 at 11.00 a.m., the removal of encroachment activities would be undertaken and that the concerned place would be measured by the Revenue Department and if it is established that there is encroachment, then, the said encroachment would be removed.

7. Per contra, it is the submission of the Learned Additional Government Pleader for R-1 and R-2 that the Petitioners in their Representation dated 25.09.2017 addressed to the First Respondent/District Collector, Dindigul District had stated that in the year 2004, they had purchased the property viz., land from one Rajammal and for the past 14 years, they are in enjoyment of the property by remitting tax and also they had secured Building Planning Approval, Patta, Chitta and Adangal etc. In effect, in the said Representation, the Petitioners had sought for issuance of patta and also furnished a copy of their Representation, to the Second Respondent/Tahsildar, Athoor Taluk Office, Athoor, Dindigul District and to the Village Administrative Officer, Alamarathupatti Village.

8. At this stage, with regard to the status of the Petitioners' Representation/Petition dated 25.09.2017, the Learned Additional Government Pleader for R-1 and R-2, brings it to the notice of this Court that the Petitioners were informed that soon after obtaining a Report from the Village Administrative Officer, in connection with the Petition, necessary action would be taken for the grant of free house site patta.

9. It is to be noted that the Petitioners's Representation dated 25.09.2017 addressed to the First Respondent/District Collector, Dindigul District is pending as on date and no final orders have been passed by the concerned Authorities. In view of the fact that the Petitioners's Petition was forwarded to the concerned Authority and also that, this Court taking note of the fact that after securing Report of the Village Administrative Officer in connection with the Petitioners's petition, necessary action would be taken for the grant of house site patta, this Court is of the earnest opinion that till final orders are passed by the concerned Revenue Authorities, the Petitioners are entitled to remain in possession of the subject property and further, their possession shall not be disturbed by anyone in whatsoever manner.

10. It is open to the Petitioners to raise all factual and legal pleas before the concerned Authority and if they so desire any personal hearing to be given to them, they are at liberty to make a request in this regard at the time of conduct of enquiry by the competent Revenue Authority concerned (with reference to the Petitioners's Representation dated 25.09.2017).



11. It is also lucidly made clear that if the Petitioners's Representation dated 25.09.2017, is rejected by the concerned Authority, then, there is no impediment for the Requisite/Competent Authority to proceed further, of course, in accordance with Law, Rules and Regulations and As per Law.

12. With the above said observation(s) and direction(s), the Writ Petition stands disposed of. No costs. Consequently, connected Writ 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,
Athoor Taluk Office,
Athoor,
Dindigul District.
3. The Block Development Office,
Athoor Block Development Office,
Sempatti,
Dindigul District.

+1cc to Special Government Pleader, SR.No. 91967

ORDER MADE IN
W.P. (MD) No. 22509 of 2017
08.12.2017

pm
JM/GT/SAR 4/28.12.2017/4P/5C