



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.12.2017

CORAM:

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

W.P. (MD) No.23752 of 2017
and

W.M.P (MD) No.19943 of 2017

Soundaram

: Petitioner

.vs.

1. The District Collector,
Sivagangai District,
Sivagangai.
2. The Revenue Divisional Officer,
Devakkottai Division,
Sivagangai District.
3. The Zonal Deputy Tahsildar,
Karaikudi Taluk Office,
Sivagangai District.

: Respondents

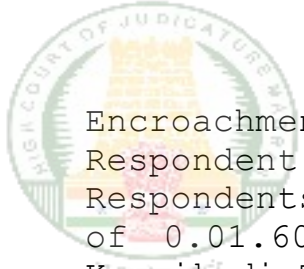
PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying this Court for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 dated 7.10.2017 issued by the Third Respondent and to quash the same and consequently to direct the Respondents to issue patta in Survey No.19/11 measuring an extent of 0.1.60 hectares at Alampattu Village, Kurunthampattu Post, Karaikudi Taluk, Sivagangai District.

For Petitioner : Mr.P.Muthusamy
For Respondents : Mr.M.Govindan
Special 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 Certiorarified Mandamus calling for the records pertaining to the impugned notice under Section 7 of the Tamil Nadu Land



Encroachment Act, 1905 dated 7.10.2017 issued by the Third Respondent and to quash the same and consequently to direct the Respondents to issue patta in Survey No.19/11, measuring an extent of 0.01.60 hectares at Alampattu Village, Kurunthampattu Post, Karaikudi Taluk, Sivagangai District.

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

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

4. The Petitioner had constructed a small thatched house and after that, he altered the same into a tiled house in S.No.19/11, measuring an extent of 0.01.60 hectares. He had addressed numerous representations to the First Respondent/The District Collector, Sivagangai District, Sivagangai, seeking patta in respect of his house from the year 2011 and the same is pending. He had paid the kist for the aforesaid land and house-tax also was remitted to the Panchayat. In the meanwhile, the First Respondent/The District Collector, Sivagangai District, Sivagangai had issued notice to the Petitioner's neighbour in M.C.No.79 of 1992, dated 24.06.1993 under Section 145 of Code of Criminal Procedure. Subsequently, a revision petition was filed before the Principal Sessions Court, Sivagangai in Crl.R.C.No.14 of 1994 and the same was also set aside. Further, the Petitioner had approached the concerned authority on various occasions for claiming patta in respect of his house. In the meanwhile, the Third Respondent had issued a notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 and the same is an illegal one.

5. The Principal grievance of the Petitioner is that the Third Respondent/The Zonal Deputy Tahsildar, Karaikudi Taluk Office, Sivagangai District had issued a impugned notice, dated 7.10.2017 without conducting any survey and the same is not a legal one. Furthermore, it is the stand of the Petitioner that the Petitioner and others are living in the same place for several decades, without any disturbance from any quarters. The Petitioner has filed the present Writ Petition assailing the correctness, validity and legality of the impugned notice, dated 7.10.2017 issued by the Third Respondent/The Zonal Deputy Tahsildar, Karaikudi Taluk Office, Sivagangai District.

6. A perusal of the impugned notice, dated 7.10.2017 issued by the Third Respondent shows that the Petitioner is in enjoyment of 0.01.60 hectares out of 0.48.50 hectares in S.No.19/11 of Alampattu Village, Kurunthampatti Post, Kallal via, Karaikudi Taluk, Sivagangai District, Government Poramboke Kanmai and that he had constructed a tiled house in the said survey number, without any permission being obtained thereto. By the impugned notice, the Petitioner was required to submit his explanation within fifteen



days i.e., before 21.10.2017, either in person or in writing. He had submitted his representation, dated 16.10.2017 to the First Respondent/The District Collector,, Sivagangai District, Sivagangai District and the same is pending.

7.A perusal of the representation of the Petitioner, dated 16.10.2017 show that the Petitioner had only prayed for issuance of patta and that he had further mentioned in the Suit Survey Number, the persons who had constructed their houses were given patta. It is not in dispute that the representation of the Petitioner dated 16.10.2017, as on date, is pending and the same is not yet disposed of.

8.Therefore, this Court, at this stage, is of the considered view that the representation of the Petitioner, dated 16.10.2017 is to be looked into by the Third Respondent within a period of two weeks from the date of receipt of a copy of this order. Thereafter, the Third Respondent, if he finds any substance or form in his representation, then he has to look into the same with all sincerity, seriousness and earnestness and dispose of the same in the manner known to Law, within a period of four weeks thereafter, by passing a reasoned speaking order, on merits, of course, after providing necessary opportunity to the petitioner and others concerned if any. Liberty is granted to the Petitioner to raise all factual and legal pleas before the Third Respondent along with necessary/relevant documents. If such documentary evidence is produced before the Third Respondent, then the Third Respondent is directed to look into the same and advert to the same, while passing of final orders in the subject-matter in issue, within the time adumbrated by this Court, in a complete and comprehensive manner. Till the final orders are passed in the subject-matter in issue, possession of the Petitioner shall not be disturbed by any one, in any manner, whatsoever.

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,
Sivagangai District,
Sivagangai.



2. The Revenue Divisional Officer,
Devakkottai Division,
Sivagangai District.

3. The Zonal Deputy Tahsildar,
Karaikudi Taluk Office,
Sivagangai District.

+ 1 cc TO Mr.P.Muthusamy , Advocate in SR No. 94666
+ 1 cc TO The Special Government Pleader in SR No. 94780

vsn

AE/SV MMS/SAR2/05.01.2018/4P/6C

ORDER MADE IN
W.P. (MD) No.23752 of 2017
and
W.M.P (MD) No.19943 of 2017
21.12.2017