



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 28.03.2017

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THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P (MD) No.5386 of 2017

and

W.M.P (MD) No.4313 of 2017

S.Antony Prakash

..Petitioner

Vs

1.The District Collector,
Thanjavur, Thanjavur District.

2.The Commissioner,
Kumbakonam Municipality,
Kumbakonam, Thanjavur District.

3.The Tahsildar,
Kumbakonam,
Thanjavur District.

..Respondents.

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus forbearing the respondents, their men, their agents, their assignees, their subordinates or anybody claiming under them from entering and disturbing the Petitioner's peaceful possession and enjoyment of the Petition property namely Banaduraikulam situated in Kumbakonam Town, Ward No.6, comprised T.S.No.2241, 2242 and in No.114, Ullur Village, Kumbakonam Taluk comprised in R.S.No.142/4, 139, Ayeekulam situated in Survey No.325, measuring an extent of 4 acres and 0.9 cents, Kumbakonam Town, Thanjavur District and Anumarkulam situated in Old S.No.266, and New T.S.No.1190 situated at Kumbakonam Town, Thanjavur District measuring an extent of 1.1/2 acre respectively.

For Petitioner :M/s.N.R.Balaji

For Respondents :Mr.K.Mahesh Raja
1 and 3 Government Advocate

For Respondent-2 : Mr.M.Rajarajan
Government Advocate



ORDER

The Petitioner has approached this Court seeking issuance of Writ of Mandamus forbearing the respondents, their men, their agents, their assignees, their subordinates or anybody claiming under them from entering and disturbing the Petitioner's peaceful possession and enjoyment of the Petition property namely Banaduraikulam situated in Kumbakonam Town, Ward No.6, comprised T.S.No.2241, 2242 and in No.114, Ullur Village, Kumbakonam Taluk comprised in R.S.No.142/4, 139, Ayeekulam situated in Survey No.325, measuring an extent of 4 acres and 0.9 cents, Kumbakonam Town, Thanjavur District and Anumarkulam situated in Old S.No.266, and New T.S.No.1190 situated at Kumbakonam Town, Thanjavur District measuring an extent of 1.1/2 acre respectively.

2.Mr.K.Mahesh Raja, learned Government Advocate takes notice for the respondents 1 and 3 and Mr.M.Rajaraman, learned Government Advocate takes notice for the second respondent.

3.By consent of both parties, the main Writ Petition is taken up for disposal, at the admission stage itself.

4.According to the Petitioner, he is in possession of the subject-matter property, is being encroached upon by third parties I.e., respondents 1 to 3. The Petitioner averred that the second respondent is attempting to convert the said properties as play ground, car park and for other public utilities.

5.The learned Government Advocate appearing for the respondents would submit that the property really meant for the purpose of Municipality and the Petitioner cannot make any claim over the said property..

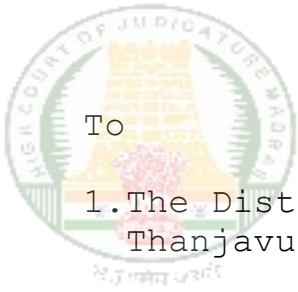
6.In view of the disputed questions of fact, this Court's jurisdiction cannot be invoked exercising the power under Article 226 of the Constitution of India. It is always open to the Petitioner to safe-guard and establish the ownership of the property before the Municipality. This Court finds no merit in the Writ Petition.

7.Accordingly, the Writ Petition stands dismissed. Consequently, connected Miscellaneous Petition is dismissed. No costs.

Sd/-
Assistant Registrar(C)

/True Copy/

Sub-Assistant Registrar



To

1.The District Collector,
Thanjavur, Thanjavur District.

2.The Commissioner,
Kumbakonam Municipality,
Kumbakonam, Thanjavur District.

3.The Tahsildar,
Kumbakonam,
Thanjavur District.

+1 CC TO MR.N.R.BALAJI, ADVOCATE, SR NO.18644

+1 CC TO MR.M.RAJARAJAN, ADVOCATE, SR NO.18442

vsn

MAS/RR/SAR2:17.04.2017:3P-6C

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