



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

AND

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No.777 of 2017

and

W.M.P. (MD) No.632 of 2017

M.Gangaraj

: Petitioner

Vs.

1.The District Collector,
Theni District,
Theni.

2.The District Revenue Officer,
Theni District,
Theni.

3.The Revenue Divisional Officer,
Uthamapalayam Taluk,
Theni District.

4.The Tahsildar,
Uthamapalayam Taluk,
Theni District.

5.Thangamuthu

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the record of the second respondent in Na.Ka.No.6717/2015/25 dated 28.07.2015 and quash the same and consequently direct the respondents 1 to 4 to remove the encroachment made by the fifth respondent in Survey No.239/1, 239/2 an extent of 18 cents, situated in Odaipatti Village, Uthamapalayam Taluk, Theni District within the period stipulated by this Hon'ble Court.

For Petitioner

: Ms.Akila

for Ms.T.Jayanthi Rani

For Respondents 1 to 4

: Mr.M.Govindan

Special Government Pleader

For Respondent No.5

: No appearance

**ORDER**

[Order of the Court was made by **G.R.SWAMINATHAN, J.**]

The writ petitioner challenges the communication dated 28.07.2015, issued by the second respondent and seeks consequential order for removal of the encroachment allegedly made by the fifth respondent in Survey Nos.239/1 and 239/2 to an extent of 18 cents situated at Odaipatti Village.

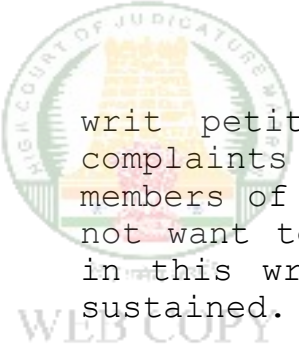
2. According to the writ petitioner, the land in Survey Nos.239/1 and 239/2 was classified as Natham Puramboku land and was assigned in favour of certain individuals. It is further alleged that the fifth respondent has purchased the said property in violation of the assignment condition and put up a marriage hall. Aggrieved by the said act of the fifth respondent, the writ petitioner had moved the second respondent herein for taking appropriate action. Since the second respondent declined to accede to the request of the writ petitioner, this writ petition has been filed.

3. Heard the learned counsel for the petitioner as well as the learned Special Government Pleader appearing for the respondents 1 to 4.

4. It is seen that the second respondent conducted an enquiry and both the writ petitioner as well as the fifth respondent were heard. Report was also obtained from the Revenue Divisional Officer, Uthamapalayam, as well as the Executive Officer of the concerned local body. After getting inputs from all the concerned officials, the second respondent came to the conclusion that there has been a simmering animosity between the writ petitioner on the one hand and the members of a community by name Rayar Kula Kurumbar. The subject land has been in the possession of the said community for several years. No individual is claiming right over the community hall put up in the said land. The said marriage hall belongs to Rayar Kula Kurumbar community. The Revenue authorities have submitted reports to that effect.

5. On account of the said encroachment, the rights of the writ petitioner have not been infringed. Similarly, the rights of the general public have also not been affected. There is a proposal to collect the land value from the community. In this regard, a proposal has been submitted to the Commissioner of Land Administration, on 18.06.2015. If the community hall is demolished, it would certainly give rise to a serious law and order problem. Therefore, the second respondent took a holistic view of the matter and rejected the request made by the writ petitioner.

6. We are of the view that the authority has taken the right decision. This writ petition is said to have been filed in public interest. We see no public interest in this writ petition. The



writ petitioner is having a motive and complaints and counter complaints have been lodged by the writ petitioner as well as the members of the said Rayar Kula Kurumbar Community. Therefore, we do not want to issue any direction as sought for. The order impugned in this writ petition is perfectly reasonable and is consequently sustained.

7.The writ petition is therefore dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1.The District Collector,
Theni District,
Theni.

2.The District Revenue Officer,
Theni District,
Theni.

3.The Revenue Divisional Officer,
Uthamapalayam Taluk,
Theni District.

4.The Tahsildar,
Uthamapalayam Taluk,
Theni District.

+1cc to Mr.R.MANOCHARAN Advocate in SR. No.68537

+1cc to Mr.A.HAJA MOHIDEEN Advocate in SR. No.68264

MR/TA/AKV

JS/SKN.RSK/SAR.1/24.08.2017/ 3P-7C

ORDER MADE IN
W.P. (MD) No.777 of 2017
27.07.2017