

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2018

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THE HONOURABLE THIRU JUSTICE V. PARTHIBAN

W.P.No.12097 of 2011

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.. Petitioner

versus

1. The District Collector,
Ariyalur District, Ariyalur.

2. The Revenue Divisional Officer,
Udayarpalayam, Ariyalur District.

3. The Tahsildar,
Udayarpalayam Taluk,
Jayankondam,
Ariyalur District.

4. K.Sekar

in M.P.No.1 of 2012 in W.P.No.12097/2011]
[Impleaded as per order dated 03.11.2017

... Respondents

Prayer:

This Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, forbearing the respondents from evicting the petitioner's house situated in S.No.134, Marudhur Village, Udayarpalayam Taluk, Ariyalur District.

For Petitioner : Mr.C.Prakasam

For Respondents: Mrs.P.Rose Kamalam
Addl. Govt. Pleader for R1 to R3
Mr.N.Rajavannian for R4

ORDER

The petitioner has approached this Court, seeking the following relief:

"To issue Writ of Mandamus, forbearing the respondents from evicting the petitioner's house situated in S.No.134, Marudhur Village, Udayarpalayam Taluk, Ariyalur District."

2. The case of the petitioner is that the petitioner's husband, while he was alive and his father constructed a small house with asbestos sheets roof 60 years above in S.No.134, Marudhur Village, Udyarpalayam Taluk and they paid B-Memo charges to the revenue department and property tax and obtained electricity service connection. According to the petitioner, the family have been in possession and enjoyment of the property without any interference for six decades. The constructed portion is situated nearly to the extent of 6.25 cents and the construction was not causing any obstruction to public pathway.

3. According to the petitioner, the Government has passed orders for issuing patta to the persons who are in possession for more than three years continuously in the same place. According to the petitioner, she being occupant of the property for several years continuously, she made a representation dated 26.04.2011, to respondents 1 and 3 seeking for grant of patta. However, the representation was not answered by the respondents.

4. In the mean while, it appears that an attempt has been made on behalf of the respondents to evict the petitioner from her property. According to the petitioner, no notice has been served under any enactment seeking eviction of the petitioner and also no steps have been taken for grant of patta with reference to their occupation for long years. In the said circumstances, the petitioner is before this Court seeking to restrain the respondents from evicting her property.

5. Upon notice, Mrs.P.Rose Kamalam, the learned Special Government Pleader entered appearance and filed a counter affidavit.

6. In the counter affidavit, it is stated that the disputed land has been encroached, which is the Government poromboke (Cart Track) and has been causing obstruction to the public in using the public pathway. Therefore, the authorities have initiated action for evicting the petitioner as she has no right to occupy the Government poromboke land and cannot claim any right or title over the same.

7. Learned counsel for the petitioner would submit that in regard to Government Poromboke land, several persons were granted patta and the petitioner alone was singled out for such eviction. In any case, the learned counsel would request this Court to direct the respondents 1 and 3 to consider the representation dated 26.04.2011 made by the petitioner for grant of patta in view of the petitioner's possession over the subject property for long years de hors the objections raised in the counter affidavit.

8. In view of the limited submission now made on behalf of the petitioner, this Court feels it appropriate to direct the respondents to dispose of the representation, dated 26.04.2011, made by the petitioner requesting for grant of patta on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order. It is also open to the petitioner to submit a fresh representation in this regard and on such representation being submitted, the respondents shall consider the same in view of the claim made by the petitioner that she is under occupation of the land for more than 60 years.

9. With the above direction, this Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Ariyalur District, Ariyalur.
2. The Revenue Divisional Officer,
Udayarpalayam, Ariyalur District.
3. The Tahsildar,
Udayarpalayam Taluk,
Jayankondam,
Ariyalur District.

+1cc to the Government Pleader, S.R.No.36989

W.P.No.12097 of 2011

CS/04/07/18

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