

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 23-10-2018

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.3160 of 2013

And

M.P.No.1 of 2013

G.Lakshmanan

.. Petitioner

..Vs..

1.The District Collector,
Dharmapuri District.

2.The District Revenue Officer,
Dharmapuri District.

3.The Revenue Divisional Officer,
Harur Taluk,
Dharmapuri District.

4.The Tahsildar,
Harur Taluk,
Dharmapuri District.

5.The Land Surveyor,
Mopparipatty Village,
Harur Taluk,
Dharmapuri District.

6.The Village Administrative Officer,
Mopparipatty Village,
Harur Taluk,
Dharmapuri District.

7.S.Ansar

.. Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India for the issuance of a Writ of Mandamus, directing the first respondent to dispose of the representation dated 14.6.2012 consequently forbearing the respondents 3 to 6

from lay a pucca road using thar by disturbing the peaceful possession and enjoyment of the petitioner in the agricultural land in Survey No.S.No.69/2 and S.No.75/1, Mopparipatty Village, Harur, Dharmapuri District.

For Petitioner : Mr.S.Sugendran

For Respondents-1to6 : Mr.R.S.Selvam,
Government Advocate.

For Respondent-7 : No Appearance

O R D E R

The relief sought for in the present writ petition is for a direction to direct the first respondent to dispose of the representation submitted by the writ petitioner on 14.6.2012 and consequently, forbear the respondents 3 to 6 from laying a pucca road using thar by disturbing the peaceful possession and enjoyment of the writ petitioner in the agricultural land in Survey Nos.69/2 and 75/1, Mopparipatty Village, Harur, Dharmapuri District.

2. The writ petitioner claims that he is in possession and enjoyment of the agricultural land in Survey No.69/2 to an extent of 1.66 acres and in Survey No.75/1 to an extent of 0.5 acres, totally to an extent of 2.16 acres.

3. The writ petitioner and the family members of the writ petitioner are doing agricultural activities for the past 40 years and from and out of the said income, they are leading their livelihood. The writ petitioner has constructed a house in the said land and paying the agricultural kist and house tax to the respondent-Revenue Department. Based on the possession and enjoyment, the writ petitioner now claims that the said lands are to be assigned in his favour. In this regard, several representations were sent to the authorities concerned and the same has not been considered by the Competent Authorities. Thus, the writ petitioner is constrained to move the present writ petition.

4. The learned Government Advocate, appearing on behalf of the respondents 1 to 6, pointed out that the lands were classified as "Government Poramboke". In fact, the details of the classification are enumerated in paragraph-3 of the counter-affidavit filed by the fourth respondent, as under:-

"3. It is submitted that all revenue records reveals as follows:-
S.No.-69/1 -0.77.5 Raitwari
Punjai

69/2	-3.40.0 Govt.Promboke
	Mank
uttai	
75/1	-1.54.0 Odai
75/2	-0.27.5 Forest road
	margin

gin

As contented by the petitioner, there was no subdivision in S.No.69/3 in as 69/3 on the Revenue Records per contra, the land in S.No.69 was sub divided as 69/1 as podugal and 69/2 as manguttai as stated above. There was no grounds to change the classification of 69/2 and 75/1 as podugal lands as contented by the petitioner. The petitioner only had made encroachment in the land classified as KUTTAI there by causing untold hardship to the public and Govt. by obstructing the water course."

5. Further, it is stated that the land in S.No.75/1 is classified as "Odai" and the land in S.No.75/2 is classified as "Highways road margin". The objectionable encroachment has to be removed only for the public interest and no patta can be granted as claimed by the writ petitioner. This Court is of an opinion that the lands now the writ petitioner claims are a Government land and the writ petitioner is an encroacher. The details of the classifications are narrated in the counter-affidavit filed by the fourth respondent, cited supra.

6. This Court is of an opinion that the writ petitioner, being an encroacher, cannot claim any assignment or patta in respect of the Government lands. All the encroachments in the Government lands are to be removed by following the procedures contemplated under the Land Encroachments Act, 1905 and the said lands are to be utilised for the welfare of the public. This Court is of an opinion that the Authorities Competent are bound to identify the encroachments and evict the encroachers by following procedures. All such Government lands, water bodies and water resources are to be utilised for the benefit of the public at large and for the purpose of implementing the Government Schemes.

7. This being the principles to be followed, the respondents are bound to remove the encroachments in the Government lands, water bodies and water resources. In view of the fact that the writ petitioner is an encroacher and is in possession of the Government land, he has no right to seek for a direction to consider the representation for the purpose of assigning the Government land.

8. In this view of the matter, the writ petitioner has not established even a semblance of legal right, so as to consider the relief, as such, sought for in the present writ petition.

9. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

Svn
To

- 1.The District Collector,
Dharmapuri District.
- 2.The District Revenue Officer,
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- 6.The Village Administrative Officer,
Mopparipatty Village,
Harur Taluk,
Dharmapuri District.

+1cc to the Government Pleader, S.R.No.72431

WP No.3160 of 2013

KS(CO)
GSP(13/11/2018)