

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2018

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE P.RAJAMANICKAM

W.P.No.10848 of 2018
and
W.M.P.Nos.12794 of 2018

Dhanagopal

... Petitioner

Versus

1. The District Collector,
Namakkal,
Namakkal District.

2. The Revenue Divisional Officer,
Namakkal,
Namakkal District.

3. The Tahsildar,
Rasipuram Taluk,
Namakkal District.

... Respondents

PRAYER:- Writ petition filed under Article 226 of the Constitution of India prays to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the proceedings of the 3rd respondent i.e.Na.Ka.No.14788/2016/b1 (c.pa.2/2017) dated 09.04.2018 and to quash the same as illegal, incompetent and ultravires and consequently directing the respondents not to vacate the petitioner from his property at S.No.189/116, Arkkaraipatti Village, Rasipuram Taluk, Namakkal District.

For Petitioner :Mr.R.Jayaprakash
For Respondents :Mr.E.Manoharan, AGP

ORDER

[Order of the Court was made by M.SATHYANARAYANAN,J.,]

By consent, the writ petition is taken up for final disposal. Mr.E.Manoharan, learned Additional Government Pleader accepts notice on behalf of respondents.

2 The petitioner claims to be a owner of the landed property admeasuring to an extent of 3323.5 sq.ft comprised in S.No.189/116, Patta No.12, Akkaraipatti Village, Rasipuram Taluk, Namakkal District and the same was purchased by his father through a registered Sale Deed bearing Doc.No.372/1947 dated 29.01.1947. Thereafter, superstructure has also been put up by the father of the petitioner and he was in possession and enjoyment of the same and after his demise, the petitioner had succeeded to the said property.

3 The grievance expressed by the petitioner is that all of a sudden, the 3rd respondent has issued notice under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 on 09.04.2018 and challenging the same, the petitioner came forward to file this writ petition.

4 The learned counsel appearing for the petitioner would submit that the title of the property was traced right from the year 1947 and Patta has also been issued after properly verifying the records and however, the 3rd respondent has started initiating action under the provisions of the said Act and prays for interference.

5 Per contra, Mr.E.Manoharan, learned Additional Government Pleader appearing for the respondents would submit that it is open to the petitioner to submit his response to the impugned notice and he has also got an effective alternate remedy under Section 10 of the said Act and prays for dismissal of this writ petition.

6 This Court has considered the rival submissions and also perused the materials placed before it.

7 Though the petitioner prays for larger relief, this Court in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner, grants liberty to the petitioner to submit his response in the form of representation by enclosing relevant and authenticated documents to the 3rd respondent within a period of four weeks from the date of receipt of copy of this order and upon receipt of the same, shall consider and dispose of the same on merits and in accordance with law within a further period of four weeks thereafter and till such time, the said official shall defer further decision interms of the provisions of the Tamil Nadu Land Encroachment Act, 1905. It is also made clear that till the 3rd respondent completes the said exercise as ordered by this Court, the petitioner shall not create any third party right in respect of the site and superstructure in question and shall not alter the physical features also.

8 With the above direction, the writ petition stands disposed of. No costs. Consequently connected miscellaneous petition is closed.

-s/d-
Assistant Registrar (CS-IX)

True Copy

Sub-Assistant Registrar

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To

1.The District Collector,
Namakkal,
Namakkal District.

2.The Revenue Divisional Officer,
Namakkal,
Namakkal District.

3.The Tahsildar,
Rasipuram Taluk,
Namakkal District.

+1 CC to Mr.R. Jayaprakash, Advocate sr 31552.
+1 CC to Govt. Pleader sr 32274.

W.P.No.10848 of 2018

SP(06/06/2018)

सत्यमेव जयते

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