

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
AND

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.P.No.11380 of 2018

Mrs.M.Chellammal

.. Petitioner

Vs

1.The District Collector
Tiruvellore District
Tiruvellore.

2.The Tahsildar
Madhavaram Taluk Office
Madhavaram
Chennai - 600 060.

3.The Section Officer (PWD)
Water Resources Department
Redhills Division
Chennai - 600 052.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records in Notice No.79/PA/2018 dated 10.04.2018 issued by the 3rd respondent and quash the same and consequently direct the respondents not to disturb the possession of the petitioner who had put up construction in the Gramanatham and living for 27 years by disposing of her representation dated 16.04.2018.

For Petitioner : Mr.V.Bhiman

For Respondents: Mr.A.N.Thambidurai,
Special Government Pleader.

O R D E R

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

By consent, this writ petition is taken up for final disposal.

2. The petitioner claims to be the owner of the property measuring to an extent of 765 sq.ft in S.No.623, Madhavaram Village, Tiruvallore District and according to her, it is classified as "Gramanatham" as per revenue records and she had put up a superstructure in the year 1991 and it is also subjected to statutory levies. The grievance expressed by the petitioner is that all of a sudden, she has been issued with the impugned notice dated 10.04.2018 by the third respondent alleging that the lands in S.Nos.647, 1420/1, 601 and 602 of Madhavaram Village are classified as "Eri Poramboke" and therefore, her occupation is unauthorised and calling upon her to remove the same within 21 days from the date of receipt of the notice, failing which, she will be dispossessed. Challenging the legality of the same, the petitioner came forward to file this writ petition.

3. The learned counsel appearing for the petitioner would strenuously contend that since the petitioner is having possession of tax receipt etc., she is the owner of the property and without adhering to the provisions of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act and Rules framed thereunder, she sought to be dispossessed all of a sudden and prays for interference.

4. Per contra, Mr.A.N.Thambidurai, learned Special Government Pleader, who accepted notice on behalf of the respondents, would submit that due process of law will be followed before evicting/dispossessing the petitioner.

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

6. Though the petitioner claims that she is the owner of the property admeasuring to an extent of 765 sq.ft in S.No.623, Madhavaram Village, no documents, evidencing such possession in her capacity as the owner, has been enclosed and no such averments as to the availability of the said documents find place in the affidavit filed in support of this writ petition.

7. A Full Bench of this Court in the decision reported in 2005(2) CTC 741 [Ramaraju Vs. The State of Tamil Nadu, representing by its Secretary to Government and others] in paragraph No.38 (3) held that "Payment of property tax,

provisions of water connection or electricity cannot be construed as conferring any independent right, if the encroachment is otherwise unauthorised".

8. Be that as it may, in the light of the fact that the petitioner claims to be in possession for more than three decades, the third respondent is directed to treat the impugned notice dated 10.04.2018 as a show cause notice and the petitioner is at liberty to submit a detailed representation by enclosing relevant and authenticated documents within a period of four weeks from the date of receipt of a copy of this order and upon receipt of the same, the third respondent is directed to consider the said representation on merits and in accordance with law and pass appropriate orders within a further period of eight weeks thereafter and till such time, shall defer further decision in terms of the impugned notice dated 10.04.2018. It is made clear that the petitioner, till the disposal of the representation to be submitted by her, by the third respondent, shall not create any third party rights in respect of the site/superstructure of the property in question and shall not alter the physical features also.

9. This writ petition stands disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

vsm

To

1.The District Collector
Tiruvellore District
Tiruvellore.

2.The Tahsildar
Madhavaram Taluk Office
Madhavaram
Chennai - 600 060.

3.The Section Officer (PWD)
Water Resources Department
Redhills Division
Chennai - 600 052.

+1 cc to the Govt Pleader sr 32937

+1 cc to M/s.V.Bhiman Advocate sr32233

W.P.No.11380 of 2018

aa07/06/2018