

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.07.2018

C O R A M

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Writ Petition No.50257 of 2006

K.K.Ananthapadmanabhan

... Petitioner

Vs.

1. The State of Tamil Nadu
rep. by the District Collector,
Kancheepuram District,
Kancheepuram.
2. The Divisional Manager,
Highways and Rural Works Department,
Chengalpet Division,
Chengalpet.
3. The Assistant Divisional Engineer,
Highways and Rural Works Department,
Poonamallee at Cheeneerkuppam,
Chennai-56.
4. The Village Administrative Officer,
Kovoor Village, Kovur-602 101.
5. The Tahsildar,
Sriperambadur Taluk,
Sriperambudur.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, forbearing the respondents or their men or agents or subordinates or anybody also claiming through them from demolishing the earmarked portion of super structure of the premises bearing D.No.2/165, Kundrathur Main Road, Kovur Village, Kovur-602 101 except under due process of law and allow the writ petition.

For petitioner

: Mr.M.Devaraj

For respondents

: Mr.K.Ravikumar,
Addl. Govt. Pleader

O R D E R

The present Writ Petition has been filed seeking to issue a Writ of Mandamus, forbearing the respondents from demolishing the ear marked portion of super structure of the premises bearing D.No.2/165, Kundrathur Main Road, Kovur Village, Kovur-602 101 except under due process of law.

2. The case of the petitioner is that he is one of the sons of late Thiru K.S.Kandasamy being Coparcener and joint owner in respect of the property situated at No.2/165, Kundrathur Main Road, Kavoor-602 101, having Survey No.91/19 admeasuring 0.44 Cents and he is enjoying the property by constructing superstructure to the extent of 900 sq.ft. and let out 4 shops in the year 2002. The joint patta was issued to the petitioner along with his family members after the demise of his father. The property has also been assessed to property and urban land tax.

3. While such being the position, the 3rd respondent came to the property of the petitioner on 07.12.2006 and marked a portion of the property. Immediately thereafter, when the petitioner approached the 3rd respondent on 09.12.2006 and enquired about the same, he was informed that since Road Widening Scheme is under process, they have to demolish his building up to the ear marked portion. Therefore, the present Writ Petition has been filed.

4. Learned Counsel appearing for the petitioner submitted that as right to possess the property by a citizen is guaranteed under Article 300 A of the Constitution of India, without due process of law, the possession of the petitioner in the property-in-question cannot be interfered with. Therefore, the learned Counsel requests this Court to issue a Mandamus as prayed for by the petitioner.

5. Learned Additional Government Pleader appearing for the respondents submitted that without due process of law, they will not dispossess the petitioner from his property.

6. Considered the rival submissions made on either side. I have also perused the records carefully.

7. Considering the facts and circumstances of the matter, this Court is of the view that it is open to the respondents to proceed further in accordance with law, after giving opportunity to the petitioner. It is made clear that if the petitioner establishes his joint ownership in the property-in-question, without following due process of law, the respondents cannot acquire his land.

8. With the above observation, the Writ Petition is disposed of. No costs.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

To

1. The District Collector,
State of Tamil Nadu,
Kancheepuram District,
Kancheepuram.
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5. The Tahsildar,
Sriperambadur Taluk,
Sriperambudur.

+1cc to Mr.M.Devaraj, Advocate, S.R.No.44298

+1cc to the Government Pleader, S.R.No.44937

W.P.No.50257 of 2006

GSP (17/07/2018)

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