

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.08.2018

CORAM:

THE HON'BLE MR.JUSTICE M.VENUGOPAL
AND
THE HON'BLE Mrs.JUSTICE S.RAMATHILAGAM

W.P.No.22442 of 2018 and
WMP No.26300 of 2018

S.Srinivasan

...Petitioner

vs.

1. The District Collector,
Collectors Office,
Thiruvannamalai District - 606 604

2. The Tahsildar,
Taluk Office,
Tiruvannamalai Taluk.

3. The Block Development officer,
Near Taluk Office,
Panchayat Union,
Thiruvannamalai District - 606 601

4. The Commissioner of Land Administration,
Ezhilagam, Near Chepauk Stadium,
Chepauk, Chennai - 600 005

... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the Commissioner of Land Administration, Chennai / 4th Respondent to dispose of Petitioner's Appeal dated 14.06.2018, as early as possible within a time frame.

For Petitioner : Mr.N.Kirubanandam

For Respondents : Mr.S.Kamalesh Kannan
Government Advocate

O R D E R

(Order of the Court was made by M.VENUGOPAL,J.)

Heard the Learned Counsel for the Petitioner and the Learned Government Advocate for the Respondents. No counter is filed on behalf of the Respondents.

2. According to the Petitioner, he is the absolute owner of the property in Survey No.259/1, Vengikal Village, Thiruvannamalai District. As a matter of fact, the property in Survey No.259/1 was under the absolute possession of his grand father, his father and brothers for the past four decades or more and patta was obtained. Indeed, the land in Survey No.259/2 is the only approach road to his land in Survey No.259/1, which was under his possession and enjoyment for the past 40 years. The said land is classified as 'Mayanam Poramboke' in 'A' Register. However, there is no use as 'Mayanam' for the past 40 years. The particular land was assessed and taxes were levied and collected by the 2nd Respondent and issued 'B' Memo in his favour.

2. The version of the Petitioner is that originally, the land was assigned as Old Survey No.194/2 and classified as 'Mayanam' in 'A' Register. The said old Survey No.194/2 in the 'Adangal Register', was mentioned as 'Kulam'. Hence his grandfather, viz., Annamalai Mudaliar had applied patta for conversion in that Survey No.194/2 before the 2nd Respondent. The 2nd Respondent had directed the Village Administrative Officer and Revenue Inspector to assess and report. The Village Administrative Officer had clearly stated in his report dated 25.09.1984 that the land for the past several years, the Petitioner has been using the same as pathway for the vehicle and the total land is approximately 0.15.0 cents, which was used by the said Annamalai Mudaliar and the land was originally classified as 'Mayanam' in 'A' Register and ultimately, the Village Administrative Officer had recommended to transfer / assign the land to his grand father. Subsequently, the Old Survey No.194/2 was resurveyed and new Survey No.259/2 was assigned.

3. At this stage, the Learned Counsel for the Petitioner submits that subsequently, Survey No.259/2 is partly possessed by the Petitioner and the 2nd and 3rd Respondents had issued notice to the Petitioner for Eviction. The Revenue Authorities had sub divided the land and wrongly noted in the Register as 'Kulam Puramboke'. In this connection, the plea taken on behalf of the Petitioner is that there was no 'Tank' or 'Kulam' / Lake at the said site and further that, bluntly ignoring the current usage of the said land, the said land in Survey No.259/2 was classified in 'A' Register as 'Kulam Puramboke'. Added further, it is represented on behalf of the Petitioner that recently the 2nd Respondent had sub-divided Survey No.259/2 as Survey No.259/2A, B, C and that 'A' was classified as 'Kulam Puramboke,

'B' as Mayanam and 'C' as Park.

4. A prime contention advanced on behalf of the Petitioner is that there is no tank or water body or lake in the said survey land and that the 2nd Respondent had erroneously subdivided the land as 'Kulam Puramboke' and issued notice to him to stop the usage of the land path way to reach his adjacent land. Furthermore, it is the only pathway to reach his land situated in Survey No.259/1.

5. The Learned Counsel for the Petitioner contends that the Respondents have no authority to deny the Petitioner's lawful easmentary right created by the statute and apart from that, patta was issued to the grand father, Annamalai Mudaliar and this land was not put to any other purpose except as way to reach the Petitioner's land. Moreover, there is no 'Kulam or Pond or Mayanam', in existence and recently Town Planning Authority had put up Park in the nearby land. But their part of the land is not under the control and possession of any authorities, public and etc.,

6. The Learned Counsel for Petitioner brings it to the notice of this Court that in the year 1984, the 2nd Respondent / Tahsildar, Tiruvannamalai had issued a 'B Memo' for this land, viz., Survey No.259/2 in question on 25.03.1996 and that on 25.03.1996, the 2nd Respondent / the Tahsildar, Taluk Office, Thiruvannamalai Taluk issued notice to Petitioner's father requiring him to evict from the land. However, the 2nd Respondent, subsequently, had decided to stop the proceedings and imposed fine to the Petitioner's father and that the possession still continues to be with the Petitioner. Subsequently, the land was assigned under 'B' Memo and by putting up a compound wall, for the past 40 years, the said land is preserved. The Local Panchayat had passed a resolution and the said land was assigned to the Petitioner by means of an Order dated 27.12.1982. The Petitioner filed W.P.No.19216 of 2018 and the same was withdrawn on 27.07.2018 with liberty to file a fresh Petition, if necessary.

7. The Learned Counsel for the Petitioner comes out with a plea that on 18.09.2017, the 3rd Respondent / Block Development Officer, Thiruvannamalai District had issued a notice to the Petitioner for eviction of land. He submitted a reply to the said notice, however, the Respondents are continuously threatening to disturb his possession. On 13.02.2017, the Petitioner submitted a letter to the 2nd Respondent / Tahsildar, Tiruvannamalai Taluk not to disturb the Petitioner's possession of land, but the Respondents grossly failed to consider the request and continuously disturb the possession. Therefore, on 14.06.2018, the Petitioner was perforced to file an Appeal before the 4th Respondent / the Commissioner of Land

Administration, Chepauk, Chennai, but, the 2nd Respondent / Tahsildar, Thiruvannamalai had failed to consider the Appeal and also threatens to disturb the possession. On 08.07.2018, the Petitioner's Counsel had issued a notice to the 1st Respondent / District Collector, Thiruvannamalai District and all efforts are in vain. Hence, the Petitioner has filed present Writ Petition seeking for passing an order by this Court in directing the 4th Respondent to dispose of the Appeal dated 14.06.2018 as early as possible, of course, within the time to be determined by this Court.

8. In response, the Learned Government Advocate for the Respondents 1 to 4 fairly submits that the 4th Respondent will dispose of the Petitioner's Appeal dated 14.06.2018 within the time frame to be determined by this Court.

9. In view of the fact that the Petitioner's Appeal dated 14.06.2018 is pending on the file of the 4th Respondent / the Commissioner of Land Administration, Chepauk, Chennai, this Court without expressing any opinion on the merits and contents of the Appeal one way or the other and also not delving deep into the subject matter in issue, at this stage, simpliciter, directs the 4th Respondent to dispose of the Appeal dated 14.06.2018 filed by the Petitioner within a period of six weeks from the date of receipt of a copy of this Order. It is open to the Petitioner to raise all factual and legal pleas before the 4th Respondent, who shall advert to the same in the final order to be passed by him. If the Petitioner requires a personal / oral hearing, then, the 4th Respondent, shall provide an opportunity in this regard to the Petitioner by adhering to the 'Principles of Natural Justice'. It cannot be gainsaid that the 4th Respondent shall pass a reasoned speaking order in a qualitative and quantitative terms, of course, untrammelled and uninfluenced with any of the observations made by this Court, if any, in this Writ Petition. Till the final orders are passed by the 4th Respondent in the Appeal dated 14.06.2018 preferred by the Petitioner, the Petitioner shall not be displaced / disturbed from the subject matter in issue.

With the aforesaid observations and directions, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

ssd

To

1. The District Collector,
Collectors Office,
Thiruvannamalai District - 606 604

2. The Tahsildar,
Taluk Office,
Thiruvannamalai Taluk.

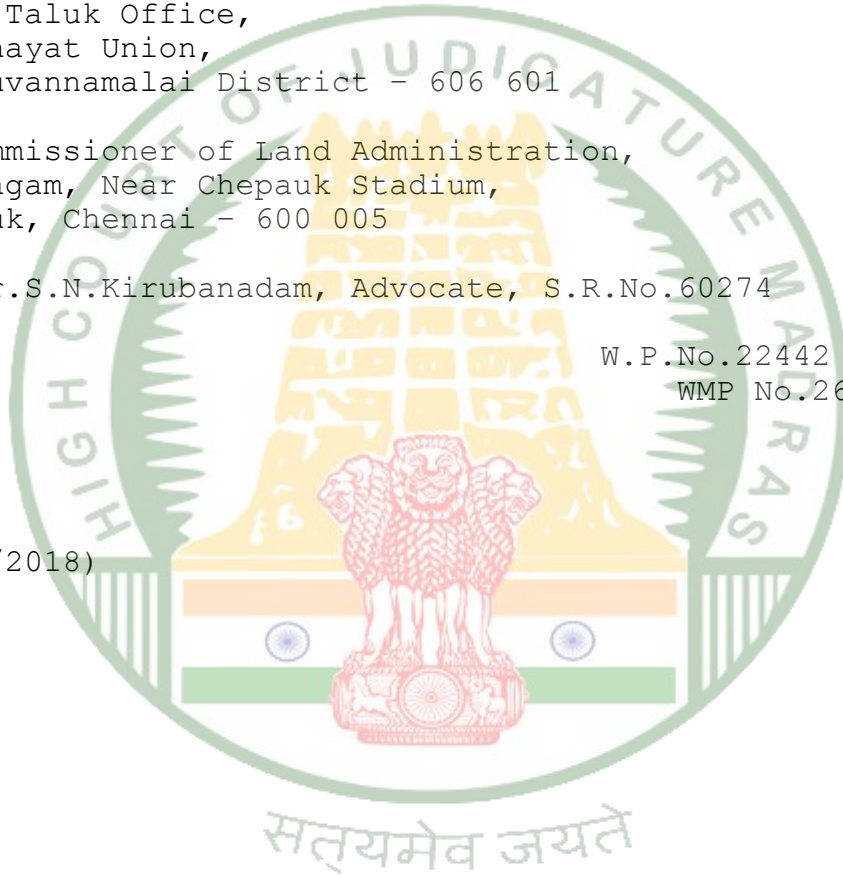
3. The Block Development officer,
Near Taluk Office,
Panchayat Union,
Thiruvannamalai District - 606 601

4. The Commissioner of Land Administration,
Ezhilagam, Near Chepauk Stadium,
Chepauk, Chennai - 600 005

+1cc to Mr.S.N.Kirubanadam, Advocate, S.R.No.60274

W.P.No.22442 of 2018 and
WMP No.26300 of 2018

PP(CO)
GSP(17/09/2018)



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