

IN THE HIGH COURT OF JUDUCATURE AT MADRAS

Dated: 03.09.2018

Coram:

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

W.P.No.22798 of 2018
and
W.M.P.No.26635 of 2018

M.Arunagiri Petitioner

vs.

1.The Collector,
Thiruvallur,
Thiruvallur Dist5rict.

2.The Tahsildar,
Ponneri Taluk,
Ponneri, Thiruvallur District.

3.The Revenue Inspector,
Gnayiru Firka, Ponneri Taluk,
Thiruvallur District ... Respondents

Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus forbearing the Respondents from evicting the Petitioner from his property, namely, House, ground and premises of extent 6 cents, 4/18, Palani Nagar, Perungavoor, Chennai-600 103, comprised in S.No.593, Perungavoor Village, Ponneri Taluk, Thiruvallur District.

For Petitioner :Mr.P.Mohanraj

For Respondents :Mr.R.Udayakumar,A.G.P.

ORDER

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

Heard the Learned Counsel for the Petitioner and the Learned Additional Government Pleader for the Respondents.

2.No counter is filed on behalf of the Respondents.

3.According to the Petitioner, his father, Late A.Munusamy, was a poor worker, belonging to the down trodden

economically weaker section of the Society and in fact, he belongs to Scheduled Caste Community. He occupied the land measuring an extent of 6 cents in Survey No.593, Perungavoor Village, Ponneri Taluk, Thiruvallur District, in the year 1970 and since then, he was residing in the said land. His father had constructed a house and shops in the said land and he expired in the year 2018. The said land was in possession of his father for more than 48 years and the Petitioner is living in the said house from his childhood. His occupation has not caused any hindrance to the Villagers and General Public of Perungavoor Village. Apart from that, other persons had put up constructions and residing there in the said land.

4.In fact, the Petitioner was issued with Family Card, Voter Card, Aadhar Card in the said address at No.4/18, Palani Nagar, Perungavoor, Chennai-103. He is paying the Electricity Bills, Taxes and other charges to the Panchayat, without any default.

5.The grievance of the Petitioner is that the Revenue Inspector, Gnayiru Firka, Ponneri Taluk and the Village Administrative officer, Perungavoor, came to his house on 28.08.2018 and orally informed that the property, which is under his possession, is classified as 'Eri Poramboke' and he should vacate the property on or before 03.09.2018, failing which, the building will be demolished on 03.09.2018. The stand taken on behalf of the Petitioner is that no Notice or Order was issued in writing and further that, the land in Survey No.593 was classified as 'Eri Poramboke' in the Revenue Records, though the said land has ceased to be the water resources several decades ago.

6.The Learned Counsel for the Petitioner contends that the State Government had issued orders in G.O.Ms.No.854, Revenue, dated 30.12.2006, wherein, the lands, which are set apart not for the common public use and at present, not in such utility, and used as house sites, wherein houses, which have been put up for more than 10 years, can be assigned to the persons, if proper documents are submitted to substantiate such use. Apart from that, the land which is in occupation and possession of the Petitioner and the surrounding area were developed as built up portions. Hence, it is represented on behalf of the Petitioner that there is no ambit for restoration of the said pond and even if the said pond is restored, no useful purpose will be served. Hence, the Petitioner made numerous Representations to the First Respondent/Collector, Thiruvallur District, seeking assignment of Patta in respect of the land in his possession. However, no endeavour was taken by the Authorities Concerned for issuance of Patta in his favour. Because of the reason that without issuance of Notice, the Authorities concerned had threatened the Petitioner to vacate the property, which is under his continuous enjoyment and possession for more than 40 years, the Petitioner has filed the present Writ Petition.

7.By way of reply, the Learned Additional Government Pleader for the Respondents submits that on 31.08.2018, the Petitioner was served with Section 7 Notice under the Tamil Nadu Land Encroachment Act, 1905 and that he was given specific 15 days' time to offer his Explanation. Therefore, on receipt of due Explanation from the Petitioner, the Second Respondent/Tahsildar, Ponneri Taluk, Ponneri, Thiruvallur District, will look into the said Representation and to dispose of the same within a time frame to be determined by this Court.

8.Considering the fact that the Petitioner was issued with Section 7 Notice (under the Tamil Nadu Land Encroachment Act, 1905), (which fact is not accepted by the Learned Counsel for the Petitioner), at this stage, this Court, simpliciter, directs the Petitioner to submit his Explanation/Representation for the purported Notice, dated 31.08.2018, within 15 days from the date of receipt of copy of this order. Soon after receipt of the Representation/Explanation by the Second Respondent, the Second Respondent shall look into the same with all seriousness and earnestness and to dispose of the same within a period of four weeks thereafter, by passing a reasoned speaking Order, after adhering to the Principles of Natural Justice (by providing reasonable opportunity of hearing to the Petitioner). It is open to the Petitioner to raise all factual and legal pleas before the Second Respondent, who shall advert to the said matters, at the time of passing the final Order in question. It cannot be gainsaid that the proposed final Order shall be passed by the Second Respondent in a free, fair, just, unbiased and in a dispassionate manner. In case, if the Petitioner requires 'Personal Hearing', the Second Respondent shall consider the said request in a humane and sympathetic manner and to pass final Order in the subject matter in issue well within the time adumbrated by this Court.

With the above observations/direction, the writ petition shall stand disposed of. No costs. Connected Miscellaneous Petition is closed.

msk

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

1.The Collector,
Thiruvallur,
Thiruvallur District.

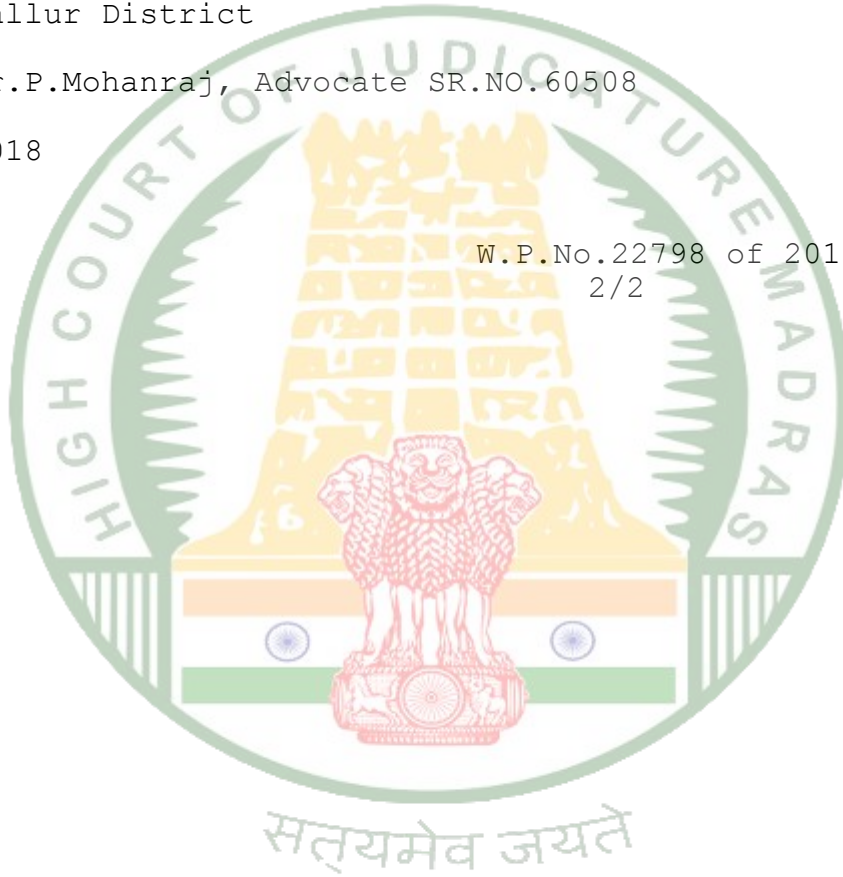
2.The Tahsildar,
Ponneri Taluk,
Ponneri, Thiruvallur District.

3.The Revenue Inspector,
Gnayiru Firka, Ponneri Taluk,
Thiruvallur District

+1cc to Mr.P.Mohanraj, Advocate SR.NO.60508

sm:12.9.2018

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