

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.06.2018

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

WP.No.12271 of 2018 & WMP.No.14338 of 2018

Janarthanan ... Petitioner

Versus

1. The District Collector,
Cuddalore & District.

2. The Revenue Tashildar
Banruti Taluk,
Cuddalore District.

... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari, calling for the entire records connected with the impugned order of eviction notice of the second respondent bearing Na.Ka.A1/10425/2018 dated 26.04.2018.

For Petitioner : Mr.D.Asenthamani

For Respondents : Mr.R.Udhayakumar, AGP

ORDER

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

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

2. It is the claim of the petitioner that the land ad measuring to an extent of 0.19.5 hectare in Semakkottai Village, Banruti Taluk, Cuddalore District was assigned in favour of his forefathers and to have an access to the said land, there is a pathway in survey No.94/1F and it is also an easement of necessity. The grievance expressed by the petitioner is that all of a sudden, the second respondent sent an impugned notice/communication dated 26.04.2018, claiming upon him to vacate the same failing which, it will be removed by the concerned officials on 04.05.2018. Challenging the legality of the same, the petitioner came forward to file this writ petition.

3. The learned counsel for the petitioner has invited the attention of this Court to the typed set of documents and submitted that since the said pathway is the only access to the petitioner's land and no decision has been taken to remove the alleged encroachment, prays for interference of this Court.

4. Per contra, the learned Additional Government Pleader appearing for the respondents would submit that admittedly, the forefathers of the petitioner were assigned the land only in Survey No.94/1 and even as per own case of the petitioner, he has encroached upon Survey No.94/1F in the form of alleged pathway and as such a fair decision would be taken to remove the encroachment in accordance with law and prays for dismissal of the writ petition.

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

6. The petitioner, in response to the impugned communication of the second respondent, dated 26.04.2018, has sent a legal notice dated 02.05.2018, which was also received vide acknowledgement by the respondents 1 and 2 on 04.05.2018. This Court taking into consideration of the above facts and circumstances of the case, without going into merits of the claim projected by the petitioner, directs the second respondent to consider the said legal notice dated 02.05.2018 on merits and in accordance with law after affording an opportunity of personal hearing to the petitioner and pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this Order and communicate the decision taken to the petitioner and till such time shall defer further decision as to the removal of the encroachment. It is also made clear that the petitioner, till disposal of his notice, shall not create any third party rights in respect of the land in Survey No. 94/1 and shall not alter the physical features also.

7. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

rts

To

1. The District Collector,
Cuddalore & District.

2. The Revenue Tashildar
Banruti Taluk,
Cuddalore District.

+1cc to Mr.D.ASENTHAMANI, Advocate, S.R.No.34760

+1cc to the Government Pleader, S.R.No. 35343

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NM(CO)
TR(13/06/2018)



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