

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 28-06-2018

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.23679 of 2015

And

M.P.Nos.1 of 2015 and W.M.P.No.22771 of 2017

S.Jayavelu

.. Petitioner

Versus

1.The District Collector,
Thiruvannamalai District,
Thiruvannamalai.

2.The Revenue Divisional Officer,
Thiruvannamalai,
Thiruvannamalai District.

3.The Tahsildar,
Thiruvannamalai,
Thiruvannamalai District.

.. Respondents

PRAYER: Writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, forbearing the respondents from dispossessing the petitioner from his property of land having an extent of 1380 sq. ft., and comprised in S.No.199.2 of Vettavalam Village, Thiruvannamalai Taluk and Thiruvannamalai District and further to direct the respondents to grant patta for assessing the land by levying kist for the property of the petitioner's land having an extent of 1380 sq. ft., as comprised in S.No.199.2 of Vettavalam Village, Thiruvannamalai Taluk, Thiruvannamalai District by disposing the representation of the petitioner dated 24.7.2015.

For Petitioner : Mr.P.G.Thiyagu

For Respondents : Ms.A.Sri Jayanthi,
Special Government Pleader.

ORDER

The relief sought for in this writ petition is to forbear the respondents from dispossessing the writ petitioner from his

property, which is a land, having an extent 1380 sq. ft., comprised in Survey No.199.2 of Vettavalam Village, Thiruvannamalai Taluk and Thiruvannamalai District and further direct the respondents to grant patta for assessing the land by levying Kist for the property of the writ petitioner's land having an extent of 1380 sq. ft.

2. The learned counsel, appearing on behalf of the writ petitioner, made a submission that the property in question was owned by one Chinnasamy Naicker and he sold the same in favour of one Mani Aachari through a registered Sale Deed in Document No.143 of 1990 dated 30.9.1990 registered with Vettavalam Sub Registrar Office. The said Mani Aachari passed away. The legal heirs of the deceased Mani Aachari namely, Sabari, Kanchana, Karthiga acquired the property by succession and they sold the same to one Govindaraj by a registered Sale Deed in Document No.3673 of 2010 registered with Vettavalam Sub Registrar Office. The writ petitioner purchased the same from the said Mr.A.Govindaraj, for a valid consideration by a registered Sale Deed in Document No.3069 of 2011 dated 2.9.2011 registered with Vettavalam Sub Registrar Office. Accordingly, the writ petitioner acquired title over the property and he is in absolute possession and enjoyment of the property for the past four years from the date of filing of the writ petition.

3. The writ petitioner claims title over the property. Further, he claims that he purchased the said property through a Sale Deed, by paying the consideration and the document has been registered before the Sub Registrar Office. The Tahsildar, Kilpennathur/third respondent filed a counter-affidavit stating that the land now claimed by the writ petitioner is a Government Poramboke land classified as "unassessed waste-parai and lying waste". The writ petitioner is an encroacher of the said land. The purchase of the abovesaid site by the writ petitioner is not maintainable. It is further stated that the writ petitioner is having a house-site at Natham Survey No.215/53B2 of the village under patta No.3382 over an extent of 42 sq. meters on which the writ petitioner has constructed a house.

4. Thus, the writ petitioner is not eligible for grant of house-site even under the Government Scheme or for patta. The fact has been informed to the wife of the writ petitioner in third respondent's endorsement No.E1/26710/2015 dated 15.9.2015. Moreover, the abovesaid site has been transferred to the State Registration Department for construction of Sub Registrar Office on 1.3.2016 by the first respondent and the said site has been handed over on 30.3.2016.

5. In view of the fact that the land in question has been transferred to the State Registration Department for

construction of Sub Registrar Office, the respondents have taken steps to evict the writ petitioner. Under those circumstances, the writ petitioner has moved the present writ petition.

6. This Court is of an opinion that the relief, as such, sought for in this writ petition to forbear the respondents from dispossessing the petitioner from his property, cannot be granted. If at all the petitioner claims that he is the owner of the property, it is left open to the writ petitioner to approach the competent Civil Court of Law for establishing title, ownership or possession. The disputes in relation to title or ownership can never be adjudicated in a writ proceedings under Article 226 of the Constitution of India, nor such a prayer to forbear the respondents from dispossessing the petitioner can be entertained in a writ proceedings.

7. The third respondent in his counter-affidavit has stated that the land now claimed by the writ petitioner is a Government Poramboke land classified as "unassessed waste-parai and lying waste". This apart, the said land has already been transferred to the State Registration Department for construction of Sub Registrar Office on 1.3.2016 by the first respondent and the said site has already been handed over to the Registration Department on 30.3.2016.

8. This being the factum of the case, this Court is of an opinion that the writ petitioner cannot establish any title in a writ proceedings. When the respondents claim that it is a Government Poramboke land, it is for the writ petitioner to establish his title or ownership before the competent Civil Court of Law.

9. This apart, now the land has already been allotted to the State Registration Department for the purpose of constructing Sub Registrar Office. This being the factum of the case, the writ petitioner has not established his any legal right for grant of any such relief, as such, sought for in this writ petition.

10. The respondents are bound to take immediate action in respect of encroachments by following the procedures contemplated under the Tamil Nadu Encroachment Act, 1905 and to evict the encroachers by following the procedures. There cannot be any delay in respect of eviction of encroachments of Government lands and the authorities competent are bound to perform their duties and protect the public lands in all respects and make use of the lands only for the public purposes and with the interest of the public at large. Thus, the writ petition stands dismissed. However, there shall be no order as

to costs. Consequently connected miscellaneous petitions are also dismissed.

Sd/-
Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

Svn

To

1.The District Collector,
Thiruvannamalai District,
Thiruvannamalai.

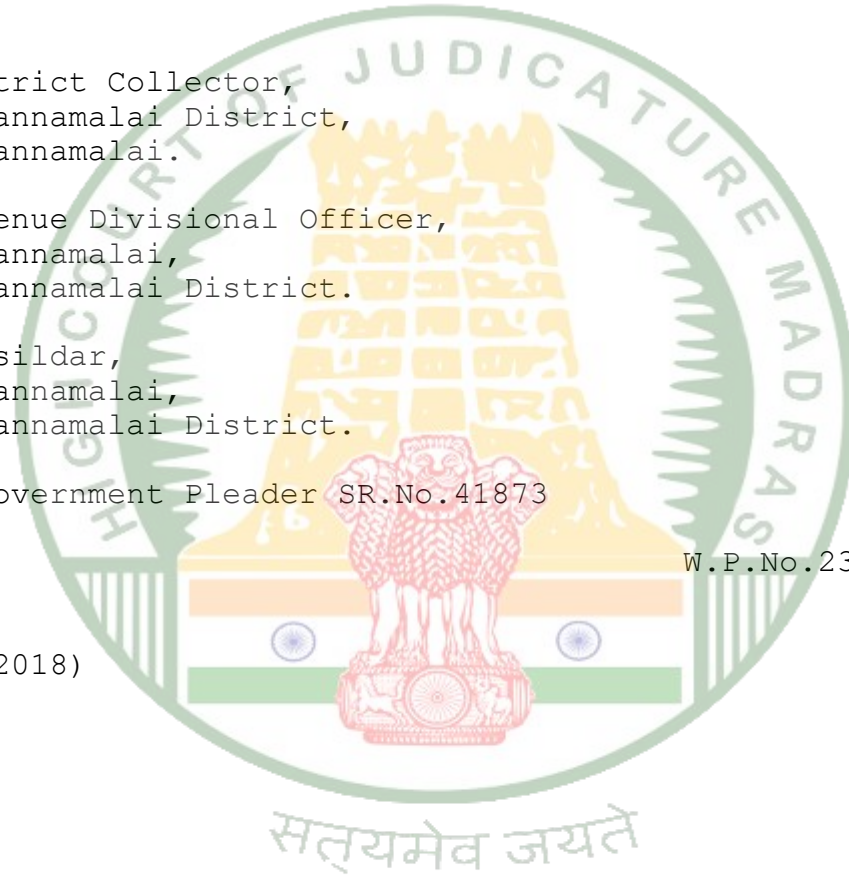
2.The Revenue Divisional Officer,
Thiruvannamalai,
Thiruvannamalai District.

3.The Tahsildar,
Thiruvannamalai,
Thiruvannamalai District.

+1cc to Government Pleader SR.No.41873

W.P.No.23679 of 2015

CP(CO)
GN(10/07/2018)



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