

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2018

CORAM

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

W.P.No.21162 of 2013 and
M.P.No. 1 of 2013

J.Joseph

... Petitioner

v.

1.The District Collector,
Kancheepuram District
Kancheepuram.

2.The District Revenue Officer,
Kancheepuram District,
Kancheepuram.

3.The Revenue Divisional Officer,
Kancheepuram District,
Kancheepuram.

4.The Tahsildar
Taluk Office
Sriperumbudur Taluk
Kancheepuram District.

5.R.Srinivasan

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents herein not to act without any due process of law for removing the septic tank available in the petitioner's property situated at Old No.1/279, New No.1/280, Bajanai Koil Street, Somangalam Colony, Melathur Village, Sriperumbudur Taluk, Kancheepuram District.

For Petitioner :M/s.Dr.R.Sampath Kumar

For R1 to R4 :Mr.N.Inbanathan
Additional Government Pleader

For R5 : No appearance.

ORDER

Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the the respondents 1 to 4 and perused the materials available on record.

2. This writ petition has been filed seeking for issuance of a writ of mandamus to direct the respondents not to act without any due process of law for removing the septic tank available in petitioner's property situated at old No.1/279, New No.1/280, Bajanaï Koil Street, Somangalam Colony, Melathur Village, Sriperumbudur Taluk, Kancheepuram District.

3. The case of the petitioner is that his father Jayaraman was owning property in survey Nos.584/8 and 584/12 and patta was issued in his favour and he was in peaceful possession and enjoyment of the said property since 1962.

4. The petitioner would further state that due to love and affection, his father has settled the property in favour of him by a registered settlement deed, dated 10.05.2002. Thereafter, in the said property he put up a pacca building by availing loan assistance from the LIC Housing Finance Ltd., in the year 2004.

5. It is alleged that at the instigation of the 5th respondent, the Panchayat President and the official respondents have threatened to demolish the septic tank constructed in his property. Hence, he issued legal notices dated 17.06.2013, 20.07.2013 and 23.07.2013 to the respondents 1 to 4. Since no reply was forthcoming, the present writ petition.

6. The 4th respondent has filed a detailed counter denying all the allegations of the petitioner and further stated that the writ petitioner's father Jayaraman was holding an extent of 95 sq.mt. in Survey No.584/8 at Somangalam 'B' Village and another 48 sq.mt. in Survey No.584/12 in patta Nos. 84 and 85. The petitioner has constructed a house in 584/12 and a septic tank in survey No.584/14 by encroaching public land, which is classified as 'Koil'. It is further stated that pursuant to the complaints received from the public, the surveyor had inspected the land and submitted a map showing the encroachment made by the petitioner in the public property. Since the writ petitioner is an encroacher, he is not entitled for any indulgence of this Court.

7. In the affidavit filed in support of the writ petition, the petitioner has admitted that the property in Survey Nos.584/8 and 584/12 was original owned by his father Jayaraman and by virtue of settlement deed, dated 10.05.2002, he became

the absolute owner of the property. In the counter affidavit itself, it is specifically stated that the petitioner had constructed septic tank by encroaching the Government land.

8. The learned counsel for the petitioner by showing photographs submitted that the petitioner had constructed the septic tank nearest to the house and there is no encroachment. It is further submitted that the petitioner has no objection to take action as per law, after conducting proper survey by the 4th respondent in the presence of the writ petitioner.

9. The learned Additional Government Pleader submitted that the inspection conducted by the official respondents shows that the petitioner had encroached the land in survey No.584/14 and the 4th respondent would take appropriate action against the petitioner by following due process of law.

10. In the light of the above submission, the 4th respondent is directed to conduct survey in the presence of the petitioner in respect of the land in dispute, within a period of two weeks from the date of receipt of copy of this order and thereafter, within a period of twelve weeks, the respondents shall take action on merits in accordance with law.

11. With the above directions, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1.The District Collector,
Kancheepuram District
Kancheepuram.

2.The District Revenue Officer,
Kancheepuram District, Kancheepuram.

3.The Revenue Divisional Officer,
Kancheepuram District, Kancheepuram.

4.The Tahsildar
Taluk Office,Sriperumbudur Taluk
Kancheepuram District.

+1cc to the Government Pleader Sr.39946

W.P.No.21162 of 2013

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srg 09/07/2018



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