

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:02.07.2018

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE N.SESHASAYEE

W.P.No.16253/2018 & WMP.Nos.19356 & 19357/2018

R.Savitha

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Petitioner

Vs

1 The District Collector
Office of Collectorate
Tiruppur District,
Tiruppur District.

2 The Tahsildar
Madathukulam Taluk
Madathukulam
Tiruppur District.

3 K.Chinnappan

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Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorarified mandamus calling for the records to the 2nd respondent notice u/s.7 of the Chennai Act III, 1905 and quash the same and direct the 2nd respondent to consider the petitioner's representation dated 05.06.2018.

For Petitioner : Mr.C.E.Prathap for
Mr.K.T.S.Sivakumar

For R-1 & R-2 : Mr.A.N.Thambidurai, Spl.GP

ORDER

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

By consent, the writ petition is taken up for final disposal. Mr.A.N.Thambidurai, learned Special Government Pleader accepts notice on behalf of the respondents 1 and 2.

2 The petitioner would claim that the landed property admeasuring to an extent of 1 acre [0.40.5 Hectares] in Saingaramanallur South Village comprised in S.NO.347/2 was settled in her favour by her husband, viz., Thiru P.Ravi and

ever since that date, she is in possession and enjoyment of the property. The petitioner would state that her husband, viz., Thiru.P.Ravi, was running an Indian Oil Petroleum Outlet/Bunk in Pudunagaram S.No.347/2A in the said Village in pursuant to the license and No Objection granted, right from the year 2012 and after his demise, the said license was transferred in her name. The petitioner would further aver that the 3rd respondent herein, on an earlier occasion, filed WP.No.33686/2017 against respondents 1 and 2 praying for issuance of a writ of mandamus, to take steps to remove the entire encroachments in the channel, comprised in S.No.347/1, Saingaramanallur South Village, Sankaramanallur Village, Madathukulam Taluk, Tiruppur District, by considering his representation dated 03.10.2017 and this Court, vide order dated 22.12.2017, has directed the 2nd respondent therein to put the 3rd respondent therein/petitioner herein on notice, as to the allegations made by the petitioner therein and after eliciting her response, shall consider and dispose of the representation of the petitioner therein, in the form of Legal Notice dated 03.10.2017, in accordance with law within the stipulated time with a further direction to communicate the said decision to the petitioner therein as well as to the 3rd respondent therein/petitioner herein and accordingly, the 2nd respondent has issued the impugned notice u/s.7 of the Tamil Nadu Land Encroachment Act, 1905. The petitioner, in response to the same, has submitted a representation dated 05.06.2018 pointing out the location of the Indian Oil Petroleum Outlet and also has specifically stated that she did not put up a compound wall on the water course and in the event of survey and inspection, it can be done after putting her on notice and she will abide by any directions to be passed thereafter in that regard.

3 The learned counsel for the petitioner would submit that despite representation being submitted and also under consideration, the 2nd respondent is proceeding further to dispossess the petitioner from the land in question and therefore, the petitioner is constrained to approach this Court by filing the present writ petition.

4 The Court heard the submission of Mr.A.N.Thambidurai, learned Special Government Pleader appearing for the respondents 1 and 2 and also perused the materials placed before it.

5 A perusal of the typed set of documents would disclose that the petitioner is the owner of the land in S.No.347/2 in Saingaramanallur Village by virtue of the registered Settlement Deed dated 06.09.2010 bearing Doc.No.2715/2010 registered on the file of the office of the Sub Registrar, Kaniyur, executed by her husband.

6 This Court, taking into consideration, the above facts and circumstances and without going into the merits of the claim projected by the petitioner, permits the petitioner to submit a detailed representation to the impugned notice to the 2nd respondent, along with a copy of this order as well as by enclosing relevant and authenticated documents within a period of two weeks from the date of receipt of a copy of this order and the 2nd respondent, upon receipt of the same, shall put the petitioner as well as the 3rd respondent on notice and thereafter, consider and dispose of the said representation on merits and in accordance with law within a further period of eight weeks thereafter and till such time, shall defer further decision in terms of the impugned notice dated 05.06.2018. It is also made clear that the petitioner, till the disposal of the representation to be submitted, by the 2nd respondent, shall not create any third party rights in respect of the site and superstructure in question and shall also not alter the physical features of the same.

6 The writ petition stands disposed of with the above direction. No costs. Consequently, the connected miscellaneous petitions are closed.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

AP
To

1 The District Collector
Office of Collectorate
Tiruppur District,
Tiruppur District.

2 The Tahsildar
Madathukulam Taluk
Madathukulam
Tiruppur District.

+1 CC to Mr.K.T.S. Sivakumar, Advocate sr 42166.
+1 Cc to Govt. Pleader sr 42787.

W.P.No.16253/2018

GSP(18/07/2018)