



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:20.11.2018

Coram

THE HONOURABLE Mr.JUSTICE M.VENUGOPAL
AND
THE HONOURABLE Mr.JUSTICE R.PONGIAPPAN

W.P.No.30077 of 2018
and

W.M.P.Nos.35092 and 35094 of 2018

Kaliammal

.. Petitioner

Vs.

1.The District Collector,
Dharmapuri District,
Collectorate, Dharmapuri - 636 705.

2.The Revenue Divisional Officer,
Salem Bypass, Periyar Nagar,
Harur, Dharmapuri District - 636 903.

3.The Tahsildar,
Pappireddipatti Taluk,
Dharmapuri District - 636 905.

..Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the records relating to the Section 7 notice dated 08.12.2017 and 09.01.2018 issued by the 3rd respondent to the petitioner under Section 7 and 6 of the Land Encroachment Act, 1905 in connection with the land measuring an extent of 0.03.0 hectares in S.No.58/2A and an extent of 0.36.0 hectares in S.No.58/2B, 0.03.0 hectares in S.No.59/6A, 0.24.5 hectares in S.No.59/6B in Devarajapalayam Village, Pappireddipatti Taluk in Dharmapuri District and quash the same as barred by limitation and violative of the fundamental rights of the petitioner under Articles 14 and 21 of the Constitution of India and consequently direct the 3rd Respondent to issue patta for the said land in the name of the Petitioner.

For Petitioner : Mrs.Nalini Chidambaram
Senior Counsel
For Mrs.C.Uma

For Respondents : Mr.J.Pothiraj
Special Government Pleader



O R D E R

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

Heard both sides.

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

3.According to the Petitioner, she purchased the land measuring an extent of 0.3.00 hectares in Survey No.58/2A and an extent of 0.36.00 hectares in S.No.58/2B, 0.3.00 hectares in S.No.59/6A, 0.24.5 hectares in S.No.59/6B in Devarajapalayam Village in Pappireddipatti Taluk, Dharmapuri District, by virtue of the registered sale deed dated 10.11.1996 on the file of the Sub Registrar Office, Pappireddipatti Taluk, Dharmapuri District.

4.The stand of the Petitioner is that at the time of purchase, she had not known that the said land is a Government Assigned Land. She had invested considerable amounts and developed the said land by digging up the well and planted 13 Teak trees, 90 coconut trees, drumstick trees and other trees. Furthermore, by virtue of proceedings dated 04.08.2012 of the 2nd Respondent, it was mentioned that the land in S.No.58/2A measuring an extent of 0.03.0 hectares in Devarajapalayam Village in Pappireddipatti Taluk, Dharmapuri District was assigned in the name of Adi Dravidar subject to conditions. However, a non Adi Dravidar is enjoying the said land by virtue of the sale deed and therefore, it was proposed to cancel the assignment and convert the land to Government poramboke and resume the land to the Government, to be kept in Government account and requiring the Petitioner to state her objections in writing. Since the Petitioner is an illiterate person, she had not submitted her objections because of the reason she had not known the implication of the notice.

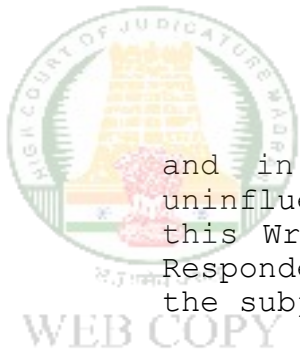
5.It comes to be known that the Petitioner was required to furnish her objections to the said proposal of cancelling the assignment on 05.01.2013 with relevant documents. Subsequently, the Petitioner received a notice dated 08.12.2017 as per Section 7 of the Tamil Nadu Land Encroachment Act, 1905 from the 3rd Respondent. In the said notice, it was mentioned that the Petitioner is enjoying the Government land measuring an extent of 0.3.00 hectares in S.No.58/2A and an extent of 0.36.00 hectares in S.No.58/2B, 0.3.00 hectares in S.No.59/A, 0.24.5 hectares in S.No. 59/6B in Devarajapalayam Village unauthorisedly. Moreover, the notice also stated that why action should not be taken under Section 3 of the Act, 1905 for levy of assessment and payment of penalty as per the Act, 1905 or why the occupant should not be evicted and the crop on the land



should not be forfeited or the building removed under Section 6 of the Act. The said objections were required to be submitted on 19.12.2017.

6. The categorical plea of the Petitioner in the Writ Petition is that she had addressed a communication/letter dated 19.12.2017 to the 3rd Respondent/Tahsildar, Pappireddipatti Taluk, Dharmapuri District. However, the Authority had not passed any orders in regard to the request for 30 days time made by the Petitioner to submit a reply for Section 7 notice issued in this regard. However, a notice dated 09.01.2018 as per Section 6 of the Act issued by the 3rd Respondent requiring the Petitioner to vacate the land within 7 days from the date of receipt of the notice and directed the Bommidi Firka Revenue Inspector to protect all the objects in the disputed land until receipt of the 1st Respondent/District Collector's order.

7. In view of the fact that the Petitioner had not submitted a reply to the notice dated 08.12.2017 issued by the 3rd Respondent and also this Court keeping in mind yet another fact that no order was passed in regard to the request for 30 days time to submit a reply by the Petitioner was granted by the authority concerned and also, a notice dated 09.01.2018 under Section 6 of the Act, 1905 was issued by the 3rd Respondent to the Petitioner requiring her to vacate the land within 7 days from the date of receipt of the notice etc., this Court, based on Equity, Fair Play, Good Conscience and even as a matter of prudence, directs the Petitioner to submit her detailed reply to the notice dated 08.12.2017 addressed to the 3rd Respondent setting out all factual and legal pleas to be raised therein within a period of two weeks from the date of receipt of copy of this order. Soon after receipt of reply by the 3rd Respondent from the Petitioner within the time adumbrated by this Court, the 3rd Respondent/Tahsildar, Pappireddipatti Taluk, Dharmapuri District is directed to look into the contents of the representation/reply of the Petitioner with all seriousness and earnestness and to dispose of the said representation/reply within a period of four weeks thereafter, of course, after providing necessary opportunity to the Petitioner by adhering to the Principles of Natural Justice. In case, the Petitioner requires any oral/personal hearing that also may be granted by the 3rd Respondent. If the Petitioner is desirous of submitting any documentary evidence at her command by producing necessary documents, the same shall be produced by her before the 3rd Respondent, who shall take into consideration of the same and also advert to both the factual and legal pleas raised by the Petitioner in the representation/reply to be submitted by her and to pass a final reasoned speaking order in a qualitative and quantitative terms and that too in an unbiased free, fair, just



and in a dispassionate manner, of course, untrammelled and uninfluenced with any of the observations made by this Court in this Writ Petition. Till the final orders are passed by the 3rd Respondent, the Petitioner shall not be disturbed/displaced from the subject property by any one.

8. With the aforesaid observations and directions, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are also closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Sgl

To

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3. The Tahsildar,
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Dharmapuri District - 636 905.

+lcc to Mrs.C.Uma, Advocate, S.R.No.79019
+lcc to the Special Government Pleader, S.R.No.79538

W.P.No.30077 of 2018

NMI (CO)
CS/10/12/2018