

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 27.12.2018
CORAM:
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
AND
THE HONOURABLE MS.JUSTICE P.T. ASHA
W.P.No.34660 of 2018
and WMP Nos.40190 & 40193 of 2018

K.Karuppiah

...Petitioner

Vs.

1. The District Collector,
Jayamkondam Road,
Ariyalur.
2. The Revenue Divisional Officer,
Taluk Office,
Ariyalur Taluk and District.
3. The Tahsildar
Taluk Office,
Ariyalur Taluk and District.
4. The Commissioner,
Municipality,
Ariyalur Taluk and District.

...Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned encroachment notice dated 20.12.2018 bearing Na.Ka.No.555/18F1 issued by the 4th respondent from demolishing the hollow block superstructure standing in the land bearing S.No.555/989 B patta No.3605 for an extent of 0.9 cents standing in the name of Washermen Association and quash the same and consequently directing the Revenue Department to incorporate the property details in Natham FMB.

For Petitioner : Ms.Usha Raman

For Respondents : Mr.V.Shanmugasundar
Special Government Pleader

O R D E R

(Order of the Court was delivered by S.VAIDYANATHAN, J.)

The writ petition is filed challenging the impugned encroachment notice dated 20.12.2018 bearing Na.Ka.No.555/18F1 issued by the 4th respondent from demolishing the hollow block superstructure standing in the land bearing S.No.555/989 B patta No.3605 for an extent of 0.9 cents standing in the name of Washermen Association and quash the same and consequently, directing the Revenue Department to incorporate the property details in Natham FMB.

2. We have heard Ms.Usha Raman, learned counsel appearing for the petitioner and Mr.V.Shanmuga Sundar, learned Special Government Pleader appearing for the respondents.

3. According to the petitioner, the subject property was set apart for the purpose of drying and washing clothes in the washermen pond. Despite issuance of patta in favour of the Washermen Association in respect of the said property, the respondents had carried out the same in the natham F.M.B. without any physical verification and the said F.M.B. is not binding upon the Association. Hence, the petitioner has filed a suit O.S.No.253 of 2013 on the file of the District Munsif Court, Ariyalur, against the respondents for declaration and permanent injunction and the same was decreed on 21.02.2017 in favour of the petitioner. No appeal has been filed by the respondents against the said decree so far. Now the impugned notice dated 20.12.2018 has been issued to the petitioner without even mentioning the survey number, plot number and out of 0.9 cents has shown 200 sq.ft. as encroachment as if a hollow block building has been put up, whereas the members of the Association have built up hollow block building only to the extent of 0.9 cents on the patta land. Hence, the petitioner has come out with the present writ petition.

4. A perusal of the impugned notice dated 20.12.2018 reveals that it is bereft of details. The petitioner is also having judgment and decree in his favour, which has become final. The respondents are unable to state whether any appeal is pending against the said suit. Since the details as stated by the petitioner are not found in the impugned order dated 20.12.2018, we are inclined to interfere with the same.

5. Accordingly, this writ petition is allowed setting aside the impugned encroachment notice dated 20.12.2018 issued by the 4th respondent. The fourth respondent is at liberty to initiate action if so advised, taking note of the judgment and decree

passed by the trial Court in favour of the petitioner. No costs.
Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

jv/kj

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Ariyalur Taluk and District.

+1cc to Mr.Usha Raman, Advocate, S.R.No.90077

+1cc to the Government Pleader, S.R.No.90107

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SPD(CO)
GSP(10/01/2018)