



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 09.03.2018

CORAM

WEB COPY

**THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MRS.JUSTICE R.THARANI**

W.P. (MD) .No.1027 of 2018
and
W.M.P. (MD) .Nos.1061 to 1063 of 2018

A.Palanichamy

... Petitioner

Vs.

1. The District Collector,
Virudhunagar District,
Virudhunagar.
2. The Tahsildar,
Sivakasi Taluk Office,
Sivakasi,
Virudhunagar District.
3. The Block Development Officer,
Block Development Office,
Vembakkottai,
Virudhunagar District.
4. Mr.A.Kannuchamy

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, relating to the 3rd respondent's impugned notice through his proceedings in ந.க.பி4/452/2017, நாள் 02.01.2018 in so far as it relates to removing the encroachment at Survey No.361/17 Thayailpatti Village, Mankundampatti, Sivakasi Taluk, Virudhunagar District and set aside the same as illegal by considering the existence of the epitaph for more than 55 years.

For Petitioner : Mr.M.Solaisamy
For R1 to R3 : Mr.D.Muruganantham
Addl. Government Pleader

O R D E R

[Order of the Court was delivered by T.S.SIVAGNANAM, J.]

appearing for the respondents 1 to 3.

2.The petitioner has filed this writ petition challenging the notice issued by the third respondent directing the petitioner to remove the tomb, which has been constructed in Survey No.361/17 in Thayilpatti Village, Sivakasi Taluk. As per impugned notice, the tomb has been constructed in a Government poramboke land. It appears that initially the land was classified as 'Grama Natham' and it is stated that the petitioner's father constructed a tomb, as the petitioner's sister passed away at a very young age and she was buried in the said land and tomb has been constructed. It is submitted that the tomb has been in existence for more than 60 years. During the upgradation of revenue entries, it appears that the land was classified as Government Poramboke land, from that of Natham. On coming to know of the same, the petitioner submitted a representation to the Tahsildar to restore the classification of land as 'Grama Natham'. This request has been rejected and as against which, the petitioner has preferred an appeal petition before the Revenue Divisional Officer, Sivakasi and the same is stated to be pending.

3.We have perused the photographs, which have been filed along with the writ petition and from which, it is seen that the construction is a old construction however, from the photographs, it is not clear as to which are the areas, which have been declared as Grama Natham, as there is an Anganwadi Centre constructed near by and there is a Public bore-well with a pump. The petitioner further submits that several people in the village have encroached into the Government land and put up construction, but no action has been taken and according to the petitioner one such person is the 4th respondent.

4.Considering the fact that the petitioner's appeal petition is pending before the Revenue Divisional Officer, we direct the impugned proceedings should be kept in abeyance for a brief period to enable the petitioner to pursue the appeal petition before the Revenue Divisional Officer.

5.In the light of the same, the third respondent is directed to keep the impugned notice in abeyance for a period of four weeks from the date of receipt of a copy of this order. Within such time, the petitioner should pursue his appeal petition before the Revenue Divisional Officer, Sivakasi and if he is unable to obtain any favourable order, then the third respondent shall implement the impugned notice and remove the offending construction. However, before doing so, the petitioner can be given an opportunity to remove it by himself, failing which, the third respondent shall remove it departmentally.

6.Since the Revenue Divisional Officer, Sivakasi is not a party to the writ petition, the Registry is directed to mark a copy of the order to the Revenue Divisional Officer, Sivakasi, for compliance of



the directions issued by this Court.

7. With the above direction, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

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Sd/-
Assistant Registrar (Crl.side)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Virudhunagar District,
Virudhunagar.
2. The Tahsildar,
Sivakasi Taluk Office,
Sivakasi,
Virudhunagar District.
3. The Block Development Officer,
Block Development Office,
Vembakkottai,
Virudhunagar District.
4. The Revenue Divisional Officer,
Sivakasi.

+ 1 CC TO Mr.M.SOLAISAMY, ADVOCATE IN SR No. 54487

NS

TE/KKR/SAR-1 : 22/03/2018 : 3P/6C

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