



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI

W.P. (MD) No.1286 of 2018

C.Rajagopal

... Petitioner

-vs-

1. The District Collector
Trichy District
2. The Revenue Divisional Officer
Musiri, Trichy District
3. The Tahsildar
Musiri Taluk, Trichy District
- 4.C.Thangarasu @ Thangaraj

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus to direct the third respondent to remove the encroached and unauthorized construction made in Survey No.419/2 (subdivided in Survey No.419/14), situated at Vadakku Nalliampatti Village, T.Pudupatti Panchayat, Musiri Taluk, Trichy District, as per the order passed by the second respondent in his proceedings in PA.MU.A1/5184/2017, dated 27.11.2017, within a time frame.

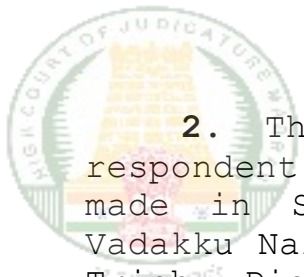
For Petitioner : Mr.J.Jeyakumaran

For Respondents : Mr.D.Muruganandam
Addl. Govt. Pleader for R1 to R3
Mr.Subash Babu for R4

O R D E R

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

Heard Mr.J.Jeyakumaran, learned counsel appearing for the petitioner, Mr.D.Muruganandam, learned Additional Government Pleader appearing for the respondents 1 to 3 and Mr.Subash Babu, learned counsel appearing for the fourth respondent and perused the materials produced.



2. The petitioner seeks for a direction upon the third respondent to remove the encroachment of unauthorized construction made in Survey No.419/2 (subdivided in Survey No.419/14), of Vadakku Nalliampatti Village, T.Pudupatti Panchayat, Musiri Taluk, Trichy District, within a stipulated time, in the light of the proceedings of the second respondent, dated 27.11.2017, cancelling the Patta granted in favour of the fourth respondent.

3. The petitioner has produced a photograph to show that the property in question is a Government poramboke land and the fourth respondent is not entitled for Patta and therefore, the second respondent has rightly cancelled the Patta.

4. The learned counsel appearing for the fourth respondent submitted that as against the order, dated 27.11.2017, passed by the second respondent, the fourth respondent has preferred an appeal before the District Revenue Officer, Trichirappalli and the same is now pending and the date of first enquiry is posted on 20.02.2018.

5. The statute provides for an appeal remedy and the said remedy should not be reduced into an empty formality. Therefore, if the order, dated 27.11.2017, passed by the second respondent is given effect to well before the appeal petition is disposed of by the District Revenue Officer, then the appeal itself will become infructuous. Therefore, the third respondent should await for the orders of the District Revenue Officer, Trichirappalli and then proceed in accordance with law.

6. Further, it appears that notice has not been served on the petitioner in the appeal petition filed by the fourth respondent against the order of the third respondent. Since action was initiated at the instance of the petitioner, he should also be heard in the matter while considering the appeal petition.

7. For all the above reasons, we direct the District Revenue Officer, Trichirappalli, to consider the appeal petition filed by the fourth respondent against the order of the second respondent, dated 27.11.2017, issue notice to the petitioner as well as the fourth respondent, consider all the documents furnished by them and pass a reasoned order on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order. Till then, the *status quo*, which is prevailing as on today (i.e. 12.02.2018) in respect of the property in question shall be maintained and no further construction, either temporary or permanent, shall be put up and the parties shall abide by the orders to be passed by the District Revenue Officer, Trichirappalli, in the appeal petition.



8. The writ petition is disposed of with the above directions.
No costs.

Sd/-

Assistant Registrar (CS-III)

WEB COPY

/True Copy/

Sub Assistant Registrar

To:

1. The District Collector,
Trichy District.
2. The Revenue Divisional Officer,
Musiri, Trichy District.
3. The Tahsildar,
Musiri Taluk, Trichy District.
4. The District Revenue Officer,
Trichirappalli.

+1cc to Mr.J.Jeyakumaran, Advocate Sr.No.48009

+1cc to Spl.Government Pleader Sr.No.48302

KRK

VB/KKR/SAR1/27.02.2018/3P/7C

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