



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 30.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and

THE HONOURABLE MRS.JUSTICE R.THARANI

W.P (MD) No.1778 of 2018

and

W.M.P (MD) No.1905 of 2018

K.Murugesan

.. Petitioner

Vs.

1.The District Collector,
Dindigul District, Dindigul.

2.The Tashildhar,
Dindigul West, Dindigul,
Dindigul District.

3.The Block Development Officer,
Reddiyarchatiram,
Dindigul Taluk, Dindigul District.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus forbearing the respondents from removing/destroying the coconut trees and standing crops and other property of the petitioner in Survey No.389, 391, 392, 404, 390 and 358 situated at Neelamalaikottai Village, Dindigul West Taluk, Dindigul District belonging to the petitioner without following due process of law and in violation of principles of natural justice.

For Petitioner : Mr.B.Saravanan
For Respondents : Mr.VR.Shanmuganathan,
Special Government Pleader.

ORDER

[Order of the Court was made by N.KIRUBAKARAN, J.]

By consent, the writ petition itself is taken up for final disposal, at the stage of admission.

2.The petitioner has got landed properties comprised in Survey Nos.389, 391 and 392 situated at Neelamalaikottai Village, Dindigul West Taluk, Dindigul District, measuring 4 acres and 12 cents, abutting a water channel. The petitioner cultivated coconut trees and other plantations in the bunds. However, without giving notice to the petitioner, the third respondent with the assistance of revenue officials, attempted to plant survey trees on the petitioner's private lands and informed that the trees would be removed. Therefore, the petitioner is before this Court, with this writ petition.



3. Heard Mr.B.Saravanan, learned counsel appearing for the petitioner as well as Mr.VR.Shanmuganathan, learned Special Government Pleader, appearing for the respondents.

4. It is an admitted fact that the petitioner has got landed properties adjoining and abutting the water channel and in the bunds, he cultivated as many as 50 coconut trees, which are aged about 15 to 20 years and if the trees are located in the bunds, which belong to the Government, it is always open to the respondents, to take over the trees under their control and they need not cut and remove the same. It is very difficult to grow a tree of twenty years old, especially, in the present scenario, it is very difficult to grow trees. In the interest of the human kind, the trees have to be grown, which we have already destroyed mindlessly. Even in the encroached land, if the trees are located, the respondents have got no right to remove it, unless it obstructs any pathway, road, etc.

5. Therefore, after surveying the property, if it is found that the trees are located within the Government land, the respondents could take over the trees or give 2C patta to the petitioner or the respondents are at liberty to lease out the trees to the petitioner, so that income could be derived. It is made clear that at any point of time, the respondents should not cut off the trees. If it is found that the petitioner has made any encroachment at the time of survey, the respondents are directed to take steps to remove the petitioner, by following due process of law and till such time, the petitioner shall not be evicted from the alleged encroached portion.

6. Accordingly, the writ petition is disposed of, with the above observation and direction. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Dindigul District, Dindigul.

2. The Tashildhar,
Dindigul District, Dindigul.



3.The Block Development Officer,
Reddiyarchatiram,
Dindigul Taluk, Dindigul District.

+1cc to Special Government Pleader, SR.No. 45985

+2cc to M/S.B.Saravanan, Advocate SR.No. 45623, 45932

ORDER MADE IN
W.P (MD) No.1778 of 2018
and
W.M.P (MD) No.1905 of 2018
30.01.2018

SMN

JM/AM/SV MMS/SAR 1/05.02.2018/3P/7C