



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.03.2018

CORAM:

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE Mrs.JUSTICE R.THARANI

Writ Petition (MD).No.4425 of 2018
and
W.M.P. (MD)No.4516 of 2018

Ravichandran

... Petitioner

Vs.

1.The District Collector,
Madurai, Madurai District.

2.The Tahsildar,
Melur Taluk,
Madurai District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, praying for issuance of a Writ of Certiorari, to call for the records pertaining to Na.Ka.No.8896/17/A4 dated 20.11.2017 passed by the second respondent and quash the same as illegal and arbitrary.

For Petitioner : Mr.P.Samual Gunasingh

For Respondents : Mr.D.Muruganantham
Additional Government Pleader

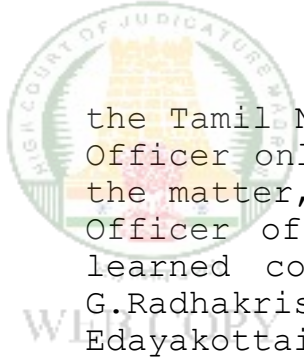
ORDER

(Order of the Court was made by **T.S.SIVAGNANAM, J**)

Heard Mr.P.Samual Gunasingh, learned counsel appearing for the petitioner and Mr.D.Muruganantham, learned Additional Government Pleader appearing for the respondents.

2.The petitioner has filed this writ petition, challenging the notice issued by the second respondent dated 20.11.2017, calling upon the petitioner to appear before him on 25.11.2017 at 11.00 a.m., and produce the documents in support of his claim over the land in question, as there is an allegation that the petitioner has encroached into the lands which are classified as water bodies/Gramam natham.

3.The learned counsel for the petitioner submitted that the impugned notice suffers from lack of jurisdiction, as in terms of



the Tamil Nadu Panchayats Act, 1984, the concerned Block Development Officer only has to initiate action and the Tahsildar can look into the matter, only after the report submitted by the Block Development Officer of the concerned area. In support of his contention, the learned counsel placed reliance on the decision in the case of G.Radhakrishnan v. The President, Edayakottai Panchayat, Edayakottai, Oddanchathiram Taluk, Dindigul District reported in 2008 (3) L.W. 548.

4. When we heard the matter on 05.03.2018, we directed the learned Additional Government Pleader to get instructions from the respondents. Accordingly, an officer from the office of the second respondent is present in Court and he has given instructions. Based on such instructions, the learned Additional Government Pleader appearing for the respondents would submit that after the direction was issued dated 09.10.2017, in a writ petition filed as public interest litigation in W.P.(MD)No.3910 of 2010 by one V.Karupu, the authorities took action in the matter and identified that there are totally 72 encroachers. However, on verification, it was found that 42 of those 72 were given an assignment Patta in the year 1968. The petitioner appears to be one of those persons who is a beneficiary of such patta. The difficulties expressed by the second respondent is that though patta has been issued, the land has been shown to be located in Survey No.264/12B1. The relevant sub division has not been carried out in the revenue records which were maintained in the office of the second respondent. If that is so, the petitioner who is an assignee, cannot be blamed for the inaction of the part of the officials in not carrying out corrections in the revenue records.

5. Therefore, at this juncture, the petitioner is branded as encroacher. However, no action was taken to throw him out of the property. Therefore, the cases of the persons who have granted assignment patta cannot be compared to that of the persons who are trespassers and encroachers of Government lands. This has to be borne in the mind by the second respondent, while initiating the action.

6. The learned counsel for the petitioner raised the question of jurisdiction of the second respondent to go into the matter. We are of the view, that since there are issues involved with regard to entries in the revenue record, it is but proper that the Tahsildar enquire into the matter, as any enquiry in level of Block Development Officer will not yield desired result. Faced with this situation, the petitioner would agree to make submission before the second respondent and in fact they are stated to have produced all the records before the second respondent. In the light of the same, we direct the petitioner to appear in person before the second respondent on 19.03.2018 and produce documents in support of his claim and also hand over one set of photographs. On receipt of those documents, the second respondent is directed to enquire into the same and proceed further in accordance with law.



7. With the above direction, the writ petition is disposed of.
No Costs. Consequently, W.M.P. (MD) No. 4516 of 2018 is closed.

Sd/-

Assistant Registrar (CS-II)

WEB COPY

/True copy/

Sub Assistant Registrar

To

1. The District Collector,
Madurai, Madurai District.

2. The Tahsildar,
Melur Taluk, Madurai District.

+1CC TO SPECIAL GOVERNMENT PLEADER, SR NO. 53687

+1CC TO M/S.P. SAMUAL GUNASIGH, ADVOCATE, SR NO. 53191

Writ Petition (MD). No. 4425 of 2018
06.03.2018

Mrn

MS/RSK/SAR-2/20.03.2018/3P.5C