



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.03.2018

CORAM:

WEB COPY

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

W.P.(MD) No.5418 of 2018
and
W.M.P.(MD) No.5348 of 2018

Palsamy

... Petitioner

-vs-

1.The Block Development Officer,
Block Development Office,
Union Office, Vilathikulam,
Tuticorin District.

2.The Tahsildar,
Vilathikulam,
Tuticorin District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorari, calling for the records of the 1st respondent pertaining to the impugned order dated 09.01.2018 in Theel/1497/2017 and quash the same.

For Petitioner : Mr.K.Gokul

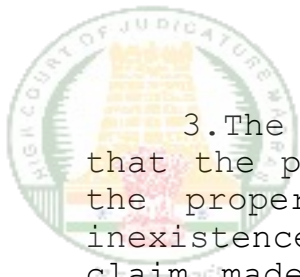
For Respondents : Mr.D.Muruganandam,
AGP for RR1 & 2

O R D E R

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

Heard Mr.K.Gokul, learned counsel appearing for the petitioner and Mr.D.Muruganandam, learned Additional Government Pleader appearing for the respondents.

2.The petitioner has filed this writ petition challenging the proceedings of the first respondent dated 09.01.2018 issued under the provisions of Tamil Nadu Panchayats Act. The allegation against the petitioner is that he has encroached to an extent of 9 sq.m into a land, which is classified as "Sarkar Poramboke Theru" and put up a tiled structure.



3.The learned counsel for the petitioner vehemently contended that the petitioner, who is now aged about 76 years, has purchased the property during 1942 and 1956 and the structure has been in existence ever since the date of purchase. Though such is the claim made by the petitioner, there is no patta granted to the petitioner in respect of the extent, which is now termed as an encroachment.

4.The learned Additional Government Pleader, on instructions, submitted that the sale deed executed in favour of the petitioner in the year 1942 and 1956 pertains to an adjacent property, where the property has constructed a house. He has produced the original file from which it is seen that there is encroachment into an area, which is a street. The encroachment has been completely delineated in the FMB sketch. Further, the photograph in the file also shows a clear projection into the street. Therefore, we are of the view that the petitioner has not been able to show his title over the extent of 9 sq.m, where he has put up a tiled structure and in the absence of any patta, the question that the petitioner claiming vested right to be in possession of the said property does not arise.

5.For the above reasons, we are not inclined to interfere with the impugned proceedings and accordingly, the writ petition is dismissed. The petitioner is granted 30 days time from the date of receipt of a copy of this order to remove the offending construction, failing which, the respondents shall remove the same departmentally and recover the cost from the petitioner. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(C.O)

/True Copy/

Sub-Assistant Registrar

To

1.The Block Development Officer,
Block Development Office,
Union Office, Vilathikulam,
Tuticorin District.

2.The Tahsildar,
Vilathikulam,
Tuticorin District.

+One cc to M/s.K.Gokul, Advocate, SR.No.55334

Arul

RL/4C/2P/SV/MMS/SAR2/26/3/2018

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and
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