



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 12.09.2018
CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

AND

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

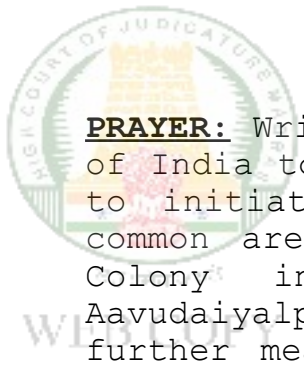
W.P. (MD) No.8491 of 2018

M.Mookammal,
The Promoter - Marudham Women Self Help Group,
Aavudaiyalpuram,
Marudhanginaru,
Kuruvikulam Union,
Sankarankovil Taluk,
Tirunelveli District.

... Petitioner

Vs.

1. The District Collector,
Tirunelveli District,
Tirunelveli.
2. The Revenue Divisional Officer,
The Revenue Divisional Office,
Tirunelveli.
3. The Special Tashildar,
Adi Dravidar Welfare,
Tashildar Office, Sankarankoil,
Tirunelveli District.
4. The Revenue Inspector,
Aavudaiyalpuram,
Marudhanginaru,
Kuruvikulam Union,
Sankarankovil Taluk,
Tirunelveli District.
5. The Village Administrative Officer,
Aavudaiyalpuram,
Marudhanginaru,
Kuruvikulam Union,
Sankarankoil Taluk,
Tirunelveli.
6. S.Petchiammal



PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the first respondent to initiate necessary action to remove the encroachment in the common area and the Children's School of the Amman Adi Dravidar Colony in S.No.175/5 in the Village of Marudhanginaru, Aavudaiyalpuram, Sankarankoil Taluk, Tirunelveli District and further measure and mark the four boundaries for the said common area based on our representation, dated 12.03.2018 within a time frame as stipulated by this Court.

For Petitioner : Mr.T.Senthil Kumar

For R1 to R5 : Mr.VR.Shanmuganathan
Special Government Pleader

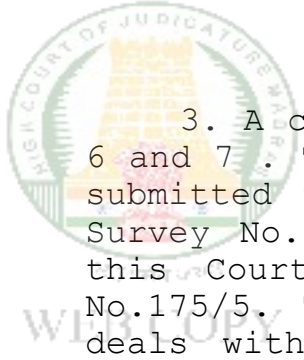
For R6 & R7 : Mr.R.J.Karthick

ORDER

[Order of the Court was made by T.RAJA,J.]

This writ petition has been filed seeking a writ of Mandamus directing the District Collector, Tirunelveli / the first respondent herein to initiate necessary action for removal of encroachment made in the common area and the Children's School of Amman Adi Dravidar Colony in S.No.175/5 in the Village of Marudhanginaru, Aavudaiyalpuram, Sankarankoil Taluk, Tirunelveli District and measure and mark the four boundaries for the said common area based on the representation, dated 12.03.2018.

2. The learned counsel appearing for the petitioner would submit that the petitioner is a Promoter of Marudham Women Self Help Group, Aavudaiyalpuram, Marudhanginaru, Kuruvikulam, Sankarankoil Taluk, Tirunelveli District and she is running the said Self Help Group in a successful manner for the past 15 years. Since the Government had sanctioned an Adi Dravidar Colony in Survey No.175/5 in the name of Amman Colony consisting of 28 houses each measuring 3 cents, the petitioner family also has been allotted with one plot in the said Colony and she is also a beneficiary under the said scheme. All the 25 plot owners are also having a common area measuring 800 sq.mts. That apart, a Children's School measuring 125 sq.mts. is also situated. While so, the sixth and seventh respondents, who are neighbours of the land in Survey No.175/5, with an ulterior motive have encroached upon the Children's School area of 125 sq.mts. earmarked under the scheme and they have also started to construct a house under the Chief Minister's Solar Powered Green House Scheme. As there has been an encroachment found, a detailed representation has been given to the respondents 1 and 2 on 05.03.2018, to remove the encroachment from the common area and also secure the Children's School area from the private persons by marking the four boundaries. As there was no development on her representation, she has been advised to come to this Court.



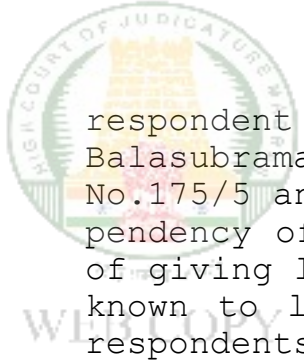
3. A common counter affidavit has been filed by the respondents 6 and 7. The learned counsel appearing for the respondents 6 and 7 submitted that they are in possession of the property covered in Survey No.175/7 for several decades. The petitioner has come to this Court for removal of alleged encroachment made in Survey No.175/5. The counter affidavit filed by the respondents 6 and 7 deals with only the landed property covered in Survey No.175/7. Therefore, this counter affidavit is not going to help the respondents 6 and 7.

4. One another counter affidavit has been filed by the Special Thasildar, Adi Dravidar and Tribal Welfare, Sankarankovil, Tirunelveli District.

5. The learned counsel appearing for the respondents 6 and 7 fairly submitted that if the respondents 6 and 7 are found to be encroachers of the land covered in Survey No.175/5, the respondents 1 to 4, after issuing notice indicating the nature of encroachment and the extent of the encroachment put up by the respondents 6 and 7, can very well proceed ahead, for which the respondents 6 and 7 have no objection.

6. Based on the counter affidavit filed by the Special Tahsildar, Adi Dravidar and Tribal Welfare, Sankarankovil, a reply was given by the learned Special Government Pleader, which shows that the lands measuring 0.62.0 hectares in Survey No.175/5, 6, 7 and 9 of Maruthanginaru Village, Tiruvengadam Taluk were acquired for providing free house site patta to the poor Adi Dravidar in Aavudaiyapuram Village, Tiruvengadam Taluk under the provisions of Land Acquisition Act, 1894, during the year 1991. Thereafter, house site pattas were also issued to 28 Adi Dravidars of Aavudaiyapuram, Tiruvengadam Taluk. However, the remaining extent of the land in the aforementioned Survey No.175/5, 6, 7 and 9 has been reserved for public purpose and Children's School. While so, Tmt. Mookammal, the petitioner herein has given a complaint alleging that Tmt. Petchiammal and Thiru Petchimuthu have encroached the area reserved for Children's School and constructed a house. As the writ petitioner requested to evict the encroachment, the fourth respondent / Village Administrative Officer of Maruthanginaru Village has inspected the lands in question on 21.06.2018 and reported that the following persons have also encroached the area reserved for public purpose and children's school, viz., Petchiammal, Balasubramanian and Ponnuthai.

7. After giving the complaint, the petitioner has come to this Court. Therefore, the respondents 1 to 4 are unable to take further action. Since we are satisfied with the contention that the petitioner has made a representation before the respondents 1 and 2 on 12.03.2018, for removal of encroachment found in Survey No.175/5 and the counter affidavit filed by the Special Thasildar, Adi Dravidar and Tribal Welfare, Sankarankovil also shows that an inspection made by the Village Administrative Officer / the fourth



respondent herein on 21.06.2018 also confirms that Petchiammal, Balasubramanian and Ponnuthai have encroached the land in Survey No.175/5 and the removal of encroachment was blocked, in view of the pendency of the writ petition, hence this Writ Petition is disposed of giving liberty to the respondents 1 to 4 to proceed in the manner known to law. Further, if there is any encroachment made by the respondents 6 and 7 in Survey No.175/5, the respondents 1 to 4 shall issue notice against the respondents 6 and 7 and on receipt of the notice, it is for the respondents 6 and 7 to submit their explanation and on receipt of the explanation, if the respondents 1 to 4 found that the respondents 6 and 7 have encroached the land in Survey No.175/5, they should remove the encroachment made by the respondents 6 and 7 forthwith. No costs.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar(CS-II)

To

1. The District Collector,
Tirunelveli District,
Tirunelveli.
2. The Revenue Divisional Officer,
The Revenue Divisional Office,
Tirunelveli.
3. The Special Tashildar,
Adi Dravidar Welfare,
Tashildar Office,
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Aavudaiyalpuram,
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Karuvikulam Union,
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5. The Village Administrative Officer,
Aavudaiyalpuram,
Marudhanginaru,
Kuruvikulam Union,
Sankarankoil Taluk,
Tirunelveli.



+1CC to Mr.T.Senthil Kumar, Advocate, SR.No. 84110

+1CC to Mr.R.J.Karthick, Advocate, SR.No. 84021

+1CC to the Special Government Pleader SR.No.84322

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12.09.2018

AKV

ES/SKN/RSK/SAR 2/16.10.2018/5P/9C