



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED :10.07.2018
CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY
and
THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P(MD)No.11439 of 2018
and
W.M.P(MD)Nos.10429 and 10430 of 2018

K.Pandi

... Petitioner

Vs.

1.The District Collector,
Sivagangai District.

2.The Sub-Collector,
Devakottai Taluk,
Sivagangai District.

3.The Tahsildar,
Devakottai Taluk,
Sivagangai District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the entire records pertaining to the impugned order passed by the third responden vide Na.Ka.A5-5512-2015, dated 22.05.2018 and quash the same and consequentially direct the third respondent to re-survey the land in S.No.184/35 and 184/37 situated at Thirani Village, Devakottai Taluk, Sivagangai District.

For Petitioner	:Mr.S.Krishnan
For Respondents	:Mr.A.K.Baskarapandian, Special Government Pleader

ORDER

(Order of the Court was made by DR.ANITA SUMANTH,J.)

The petitioner seeks the issuance of a Writ of Certiorarified Mandamus calling for the records and quashing order passed by the third respondent dated 22.05.2018 and consequential direction for re-survey of the lands in survey Nos.184/35 and 184/37 situated at Thirani Village, Devakottai Taluk, Sivagangai District.

2. Heard Mr.Krishnan, learned counsel for the petitioner and Mr.Baskarapandian, learned Special Government Pleader for the respondents.



3. According to Mr. Krishnan, the petitioner is a long time resident in the property in survey No.184/37. A writ petition had been filed in W.P(MD)No.13198 of 2017 arraying the petitioner's father, who had passed away in the year 2016, as the fourth respondent. This Court, vide order dated 18.07.2017, noted that an order under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 (in short 'the Act'), had been issued in respect of the alleged encroachments by the respondents 4 and 5 in that writ petition and directed the third respondent, the Thasildar, Devakottai Taluk, to take follow up action, as expeditiously as possible, after issuing notice to respondents 4 and 5.

4. An earlier writ petition has been filed by this petitioner in W.P(MD)No.487 of 2018 seeking a Certiorari calling for and quashing a notice under Section 7 of the Act dated 28.01.2016, an order under Section 6 of the Act dated 12.07.2016 and consequential demolition order dated 04.01.2018. The writ petition was disposed of by an order dated 23.02.2018 setting aside the demolition notice alone. Since the Bench was of the view that proper survey of the area had not been conducted, the third respondent Tahsildar was directed to conduct survey of the area after notice to the petitioner and the fourth respondent in the writ petition who was alleged to be an encroacher and after marking boundaries and to initiate necessary action for encroachment if any found, within a period of six weeks from the date of receipt of the order.

5. Pursuant thereto and as per the counter filed by the Tahsildar, a notice was issued on 05.05.2018 for survey of the lands in question after due notice to the petitioner and other concerned parties, who were present at the time of survey. Boundaries to the lands have been demarcated. There is a specific averment in paragraph No.9 of the counter to the effect that the lands in survey No.184/35 have been encroached upon by the writ petitioner as well as the one Sundaram. A report to the aforesaid fact has also been given on 21.05.2018 by the surveyor.

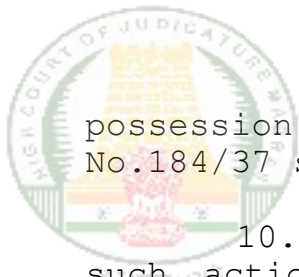
6. According to the third respondent, the contention of the petitioner that the whole of Thirani Village is a Natham Village is incorrect. The lands in Survey No.184/35 admeasuring an extent of 0.00.100 ares have been classified as 'Natham Theru'.

7. The respondents however do not dispute the position that the land in survey No.184/37 where the petitioner resides, is classified as 'Natham' and the father of the petitioner had been granted patta in this regard during the Natham Settlement Survey more than four decades ago.

8. It is thus an admitted position that the land in survey No.184/37 stands in the name of the petitioner.

<https://hcservices.ecourts.gov.in/hcservices/>

9. In the light of the aforesaid admitted position, the



possession and occupation of the petitioner of the land in survey No.184/37 shall not be disturbed by the respondents.

10. Needless to say, the respondents are at liberty to take such action as may be necessary in accordance with law, with respect to the other lands in question.

11. The writ petition is disposed of in the above terms. No Costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (P&A)

/True Copy/

Sub Assistant Registrar

To:

1.The District Collector,
Sivagangai District.

2.The Sub-Collector,
Devakottai Taluk,
Sivagangai District.

3.The Tahsildar,
Devakottai Taluk,
Sivagangai District.

+1CC to Mr.A.Muralikumar Advocate in SR.No.72321.

+1CC to Special Government Pleader in SR.No.72278.

PM

DS/SKN-RSK/SAR-1 :20.07.2018: 3P/6C

W.P (MD) No.11439 of 2018

and

W.M.P (MD) Nos.10429 and 10430 of 2018
10.07.2018