



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.06.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P. (MD) No.12340 of 2018

and

W.M.P (MD) Nos.11202 and 11203 of 2018

Sri Karuppar Temple
Rep. by one of its Karaikarar
Mr.S.Masilamani
S/o.Singaram,
Thulukaviduthi South Village,
Peravoorani Taluk & PO,
Thanjavur District.

... Petitioner

-Vs-

1. The Revenue Divisional Officer,
Pattukottai,
Peravoorani Taluk,
Thanjavur District.

2. The Thasildar,
Peravoorani Taluk,
Peravoorani,
Thanjavur District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records relating to the impugned order of the second respondent dated 08.05.2018 describing the petitioner temple as an encroachment and to quash the same.

For Petitioner : Mr.V.S.Kumaraguru

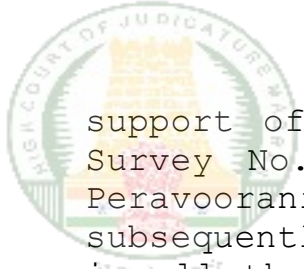
For Respondents : Mr.N.Shanmuga Selvam
Additional Government Pleader

ORDER

This writ petition is filed for issuing a Writ of Certiorari to quash the impugned order of the second respondent dated 08.05.2018.

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

2.The petitioner has stated in the affidavit filed in



support of the petition that the temple has been constructed in Survey No.114/4 in Thulukaviduthi South Village, Avanam Post, Peravoorani Taluk. The petitioner further stated that subsequently, the temple was assigned with new S.No.114/7. Though in all the documents, the temple has been shown as the original owner, the temple has not been given patta for the land in S.No.114/7.

3.In these circumstances, the petitioner has challenged the eviction notice issued by the respondents under Section 7 of the Land Encroachment Act in respect of the property in S.No.114/7. The petitioner himself has admitted that for the land in S.No.114/7, for which, the eviction notice has been issued, the temple has not been given any patta. When the petitioner himself admits this position, the petitioner cannot state that the notice issued under Section 7 of the Land Encroachment Act is without jurisdiction. It is stated by the petitioner that there is change of Survey number and that the temple was constructed long back in S.No.114/4 but the same temple is now shown to be in existence in S.No.114/7. This is contrary to the reply given on behalf of temple to the notice impugned in this writ petition.

4.It is not in dispute that the land in S.No.114/7 in Thulukaviduthi South Village, Avanam Post, Peravoorani Taluk is classified as poromboke land and no assignment has been given by the Government. When the factual position reveals that the temple has no patta and it is stated that it has applied for patta for the property, the remedy is to give a reply to the statutory notice issued under Section 7 of the Land Encroachment Act and establish, if the temple has any right over the property in question before the Revenue Authorities. However, the petitioner has not made out a case for challenging the notice issued under Section 7 of the Land Encroachment Act.

5.In the above circumstances, the writ petition is dismissed as devoid of merits. Liberty is given to the petitioner to file a reply to the show cause notice issued by the respondents under Section 7 of the Land Encroachment Act and it is also open to the respondents to pass appropriate orders on merits after considering the representation of the petitioner. No costs. Consequently, W.M.P(MD)Nos.11202 and 11203 of 2018 are closed.

Sd/-
Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar



To

1. The Revenue Divisional Officer,
Pattukottai,
Peravoorani Taluk,
Thanjavur District.

2. The Thasildar,
Peravoorani Taluk,
Peravoorani,
Thanjavur District.

+ 1 cc TO Mr.V.S.Kumaragurau , Advocate in SR No. 68482

rmi

AE/SKN RSK/SAR4/03.07.2018/3P/4C

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