



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.11.2018

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBBIAH
AND
THE HONOURABLE MRS.JUSTICE R.THARANI**

W.P.[MD].No.13366 of 2018

and

W.M.P (MD) Nos.12181 and 12182 of 2018

X.Arockiamary

: Petitioner

Vs.

1.The District Collector,
Trichy District,
Trichy.

2.The Tahsildar,
Marungapuri Taluk,
Trichy District.

3.The Revenue Inspector,
Revenue Inspector's Office,
Marungapuri Division,
Marungapuri Taluk,
Trichy District.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order dated 06.06.2018 issued by the 2nd respondent in respect of property comprised in S.No.537/2 of an extent of 00.168 sq. metres situated at Palakurichi Village, Marungapuri Taluk, Trichy District and quash the same and consequently direct the respondents not to interfere with the peaceful possession and enjoyment of the said property.

For Petitioner

: Mr.C.Jeganathan

For Respondents

: Mr.M.Jeyakumar,

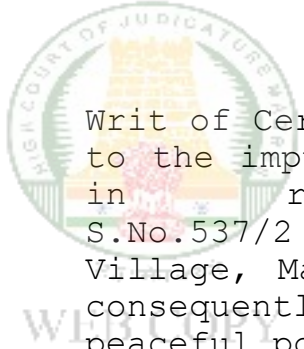
Additional Government Pleader

O R D E R

[Order of the Court was made by R.SUBBIAH, J.]

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

This writ petition has been filed seeking for issuance of a



Writ of Certiorari Mandamus, calling for the records pertaining to the impugned order dated 06.06.2018 issued by the 2nd respondent in respect of property comprised in S.No.537/2 of an extent of 00.168 sq. metres situated at Palakurichi Village, Marungapuri Taluk, Trichy District and quash the same and consequently, direct the respondents not to interfere with the peaceful possession and enjoyment of the said property.

2. The case of the petitioner is that the land comprised in Survey No.537/2 situated at Palakurichi Village, Manapparai Taluk, Trichy District, is a Natham Poramboke land and she has been in continuous possession and enjoyment of the said property without any interference by putting up a thatched shed. While so, in the year 2013, the husband of the petitioner died, leaving behind the petitioner and her son. In such circumstances, recently one James, who is the son of one Susai Manickam Pillai, who lost his rights over the said property before the competent civil Court, in collusion with the Revenue Inspector with the intention to grab the property made a false representation before the respondents stating that the petitioner is an encroacher in respect of the land in Survey No.537/2. Based on that representation, without verifying the facts, the third respondent issued a notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905, on 03.04.2018. The petitioner also sent a detailed reply explaining the fact that they have been in the said property for quite a long time. In the said reply, it is also stated that the Tamil Nadu Encroachment Act is not applicable in case of natham lands. But, without considering the petitioner's reply properly, now an order under Section 6 of the Tamil Nadu Land Encroachment Act, 1905, was passed to remove the said encroachment.

3. The only grievance of the petitioner is that in the reply sent by her, she had clearly stated that the subject land is a natham poramboke land. But, without advertting to the grounds raised by the petitioner in the said reply, the second respondent had passed the impugned order.

4. The learned counsel for the petitioner invited the attention of this Court to the writ petition filed by her co-brother in W.P (MD)No.12991 of 2018 and submitted that said Manickam is one of the co-sharers in the subject property. When a notice was also issued, he has filed the said writ petition and this Court has granted an order of stay on 19.01.2018. Thereafter, he was issued with patta. Hence, such being the position, now the impugned order has been passed in respect of the very same survey number 537/2, which is not proper and therefore, the petitioner prays for quashing of the said order.

5. The learned Additional Government Pleader appearing for the respondents by filing a detailed counter, submitted that the petitioner is only an encroacher. She is trying to grab the Government land by putting up temporary construction and thus, he



sought for dismissal of this writ petition.

6. Irrespective of the submissions made, we are of the opinion that since the grievance of the petitioner is that the grounds raised by the petitioner that the petitioner's land is a Natham Poramboke Land, was not considered by the second respondent, we find some force in the contention made by the petitioner. Therefore, we are of the opinion that it is appropriate to quash the order passed by the second respondent.

7. In the result, the order passed by the second respondent dated 06.06.2018, is set aside and the matter is remitted back to the **(*)second respondent** for fresh consideration by discussing the fact as to whether the subject land is a Natham Poramboke Land or not. While doing so, the **(*)second respondent** is also directed to take note of the patta issued in respect of the co-sharer of the petitioner and pass appropriate orders. It is made clear that this Court has not discussed the merits of the case and we have extracted the submissions made by the learned counsel appearing for the petitioner and it is for the **(*)second respondent** to consider the same purely on merits and in accordance with law. The entire exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

8. With the above observation and direction, the writ petition is disposed of. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CO)

(*)Paragraph No.7 in the order passed in WP(MD) No.13366/16 of dated 22/11/2018 is amended as per order dated.07.12.2018 in WP(MD) No.13366/18 under for being mentioned caption by RSJ & RTJ

/True Copy/

Assistant Registrar (CO)

Sub Assistant Registrar(CS-II)

To

***(To be Substituted in the Place of order dated.22.11.2018 already despatched on 05.12.2018)**

1.The District Collector,
Trichy.
<https://hcservices.tamilnadu.gov.in/hcservices>



2.The Tahsildar,
Marungapuri Taluk,
Trichy District.

3.The Revenue Inspector,
Revenue Inspector's Office,
Marungapuri Division,
Marungapuri Taluk,
Trichy District.

+1cc to Mr.Veera Associates, in SR.No.99683

+1cc to Special Government Pleader, in SR.No.96579

ORDER MADE IN
W.P (MD) No.13366 of 2018
22.11.2018

PM

PSRSK SAR2 04.12.2018 4P 6C

SPRSK SAR2 21.12.2018 4P 6C