



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.10.2018

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

AND

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

W.P.(MD) No.21893 of 2018

and

W.M.P.(MD) Nos.19830 & 19831 of 2018

P.Rathinam

... Petitioner

vs.

1. The District Revenue Officer,
O/o. The District Revenue Officer,
District Collectorate, Ramanathapuram

2. The Tahsildar,
Taluk Office, Ramanathapuram

3. The Revenue Inspector,
Devipattinam Firca,
Ramanathapuram

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for the records of the 2nd respondent in the impugned eviction order of notice dated 15.04.2005 - Madurai, quash the same and consequently issue patta to the lands in S.Nos.67/1 and 67/2 an extent of 5 Acres 62 cents in total of Pathenendal Village in the name of the petitioner.

For Petitioner : Mr.N.S.Ponnaiah

For Respondents : Mr.C.Ramar

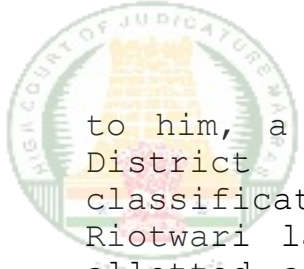
Additional Government Pleader

O R D E R

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

This Writ Petition is directed against the impugned eviction order of notice dated 15.04.2005 issued by the second respondent, however, with a huge and unexplained delay of 13 long years.

2. Learned counsel for the petitioner, taking support from the judgment and decree passed by the learned District Munsif, Ramanathapuram in O.S.No.189/2005 dated 24.07.2012, submitted that the petitioner has succeeded against the respondents herein/defendant in establishing the controversial issue raised in the writ petition that the land covered in S.Nos.67/1 and 67/2 to an extent of 5 Acres 62 cents in Pathanendal Village belong to the petitioner. Learned counsel further submitted that even after obtaining the judgment and decree that the land in question belong



to him, a representation has also been made on 15.02.2017 to the District Revenue Officer, Ramanathapuram, to change the classification of the lands from Kanmoi Ulvai (கண்மாய் உள்வாய்) into Riotwari land and also to issue patta for the lands in question, allotted as graveyard to local people as mentioned in the plaint through the sketch, as per the judgment and decree of the District Munsif Court, Ramanathapuram. Therefore, it is pleaded that there is no delay on the part of the petitioner to approach this Court.

3. Still, we are unable to find any sufficient cause or explanation. The reason is that though the impugned eviction notice issued by the Tahsildar is dated 15.04.2005, the trial Court has not even referred to the impugned notice as one of the exhibits, which shows the petitioner has not even questioned the eviction notice at any point of time before the trial Court or any other forum. Therefore, merely getting a decree of declaration and consequential permanent injunction, without assailing the impugned notice, in our opinion, will not support the case of the petitioner. Moreover, the judgment dated 24.07.2012 in O.S.NO.189/2005 by the District Munsif Court, Ramanathapuram also clearly shows that the petitioner was issued with 'B' Memo, dated 10.05.2004, also marked as Ex.A10.

4. To controvert the said 'B' memo, the Village Administrative Officer appeared before the Court below as D.W.1 and in her chief examination, she has stated that the settlement has been made in the year 1958 and the suit is barred by limitation. She had also deposed that the plaintiff's father Pitchai Thevar has been paying Kist to the Government and therefore, the plaintiff was not entitled to any relief. 'A' register for the suit property was also marked as Ex.B.1 and FMB Sketch also was marked as Ex.B2. After producing all the documents, namely, 'B' memo dated 10.05.2004, Exs.B1 and B2, have clearly indicated that the petitioner is not the owner of the property and it is only a part of kanmoi. Therefore, he was issued with 'B' Memo and this has been completely overlooked. Moreover, when the petitioner also made a representation, after the judgment was passed by the learned District Munsif Court, Ramanathapuram on 24.07.2012, seeking issuance of patta also was not considered for the simple reason that 'A' Register also clearly shows that the land in question has been classified as Kanmoi Ulvai (கண்மாய் உள்வாய்).

5. For all these aforementioned reasons, as we had mentioned above that there is a huge and unexplained delay of 13 long years, we are unable to entertain this writ petition. Therefore, the writ petition fails and the same is dismissed. No costs. Consequently connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(AS)

/True Copy/



To

1. The District Revenue Officer,
O/o. The District Revenue Officer,
District Collectorate, Ramanathapuram.

2. The Tahsildar,
Taluk Office, Ramanathapuram.

3. The Revenue Inspector,
Devipattinam Firca,
Ramanathapuram.

+1cc to Mr.N.S.Ponnaiah, Advocate Sr.No.92453

+1cc to Spl.Government Pleader Sr.No.92240

RR

VB/SV/SAR1/13.12.2018/3P/6C

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