



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.04.2018

CORAM:

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU
AND
THE HONOURABLE MRS. JUSTICE T.KRISHNAVALLI

W.A[MD].No.1467 of 2017
in
W.P. (MD)No.11895 of 2017

S.Sundara Kani

.. Appellant/Petitioner

Vs.

1. The District Collector,
Thoothukudi District,
Thoothukudi.
2. The Tahsildar,
Srivaikunadam,
Thoothukudi District.
3. The Revenue Inspector,
Seithunganallur,
Srivaikundam Taluk,
Thoothukudi District.
4. Ayyanar,
Revenue Inspector,
Seithunaganallur,
Srivaikundam Taluk,
Thoothukudi District.

...Respondents/Respondents

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent, against the order, dated 02.08.2017 passed in W.P.(MD)No.11895 of 2017, on the file of this Court.

Prayer in WP(MD). 11895/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Mandamus forbearing the 3rd respondent from interfering with the peaceful possession and enjoyment over the petitioners family in natham survey No.476/2, Manalvilai, Vallakulam Village, Srivaikundam Taluk, Thoothukudi District.



For Appellant

: Mr.R.Pon Karthikeyan

For R1 to R3

: Mr.A.Thiyagarajan
Government Advocate

For R4

: Mr.R.Karthikeyan

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JUDGEMENT

[Judgement of the Court was delivered
by **K.RAVICHANDRABAABU, J**]

This writ appeal is directed against the order passed in the main writ petition in W.P.(MD)No.11895 of 2017, dated 02.08.2017 in dismissing the same with certain observations.

2.The appellant as the writ petitioner sought a writ of Mandamus forbearing the third respondent from interfering with her peaceful possession and enjoyment in respect of the property situated at Natham Survey No.476/2, Manalvilai, Vallakulam Village, Srivaikundam Taluk, Thoothukudi District.

3.The learned Judge, after recording the submissions made by the learned Government Advocate appearing for the respondents that the land in dispute is described as street in the revenue records and that the petitioner has encroached upon the street measuring an extent of 20 sq. meters by way of constructing asbestos roof building, dismissed the writ petition, however, by observing that the Block Development Officer shall evict the petitioner by following the due procedure established by law.

4.The present writ appeal is filed by contending that the revenue officials, more particularly, the fourth respondent, Revenue Inspector, are not entitled to interfere with the possession and enjoyment of the subject-matter property, since it is a Natham land. Thus, it is contended by the appellant that attempt of the fourth respondent, viz., Revenue Inspector to interfere with the petitioner's peaceful possession and enjoyment over the subject-matter property, is unlawful. Further grievance of the appellant before this Court is that not even a single notice is issued to the petitioner so far, before making such illegal attempt by the fourth respondent.

5.On the other hand, the learned counsels appearing for the respondents submitted that the petitioner has occupied and put up construction in a property, which is described as street in the revenue records and therefore, she is not entitled for any indulgence.

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6.Heard both sides.



7.It is the case of the appellant that the subject-matter property, which is in her occupation, is a Natham land, over which, the revenue officials, cannot have any claim and consequently, they are not entitled to interfere with his possession and enjoyment of the same. On the other hand, it is the case of the respondents that the subject-matter property is a street, in which, the petitioner has made some encroachment by putting up some construction. Therefore, it is evident that the very nature and classification of the property is in dispute. Needless to say that even if it is a Natham land and such land is being used as street by the general public, certainly the petitioner is not entitled to encroach upon such public street and put up any construction. On the other hand, if it is not a street, as contended by the writ petitioner, it is for her to work out the remedy, as and when any notice is issued to the petitioner, as observed by the learned single Judge. When the writ Court has already protected the interest of the petitioner by issuing direction to the Block Development Officer to resort to the eviction proceedings only by following the procedure established by law, we do not find any reason to interfere with such order, as the interest of the writ petitioner, as of now, is well protected.

8.Accordingly, the writ appeal fails and the same is dismissed. No costs.

Sd/-

Assistant Registrar(Crl side)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Thoothukudi District, Thoothukudi.
2. The Tahsildar,
Srivaikunadam, Thoothukudi District.
3. The Revenue Inspector,
Seithunganallur,
Srivaikundam Taluk,
Thoothukudi District.

+ 1 cc TO Mr.R.Pon Karthikeyan , Advocate in SR No. 62063
+ 1 cc TO The Special Government Pleader in SR No. 62510

rj2

AE/KKR/SAR1/30.05.2018/3P/5C