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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED :18.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY
and

THE HONOURABLE DR.JUSTICE ANITA SUMANTH
W.P (MD) No.14966 of 2018

and

W.M.P (MD) Nos.13520 & 13521 of 2018

P.Mahalakshmi

... Petitioner

Vs.

1. The Secretary to the Government,
Revenue Department,
Fort St. George,
Chennai.
2. The District Collector,
Office of the District Collector,
Madurai.
3. The Tahsildar,
Madurai East Taluk,
Madurai.
4. The Assistant Engineer,
Public Works Department / W.R.O.
Periyar Main Canal Section,
Sub Division No.1,
Madurai 2.

... 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 04.06.2018 made in Letter No.G 18-AE / Madurai / 18 whereby the petitioner has been directed to vacate from the portion of land occupied by her in Vandiyoor more fully an extent of 38 sq. metres, 71 sq. metres, 42 sq. metres, 32 sq. metres, 70 sq. metres comprised in S.No.43/1 Vandiyoor first Bit Village, Madurai East Taluk, Madurai District and quash the same and consequently forbearing the respondents from in any manner evicting the petitioner without following due process of law.

For Petitioner : Mr.Veera Kathiravan Senior Counsel
for Mr.G.Gangai Amaran

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

**ORDER**

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

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The petitioner prays for a Certiorarified Mandamus quashing an order dated 04.06.2018 passed by the fourth respondent, seeking to evict her from the lands occupied by her of extents of 38 sq. metres, 71 sq. metres, 42 sq. metres, 32 sq. metres and 70 sq. metres comprised in S.No.43/1 Vandiyoor first Bit Village, Madurai East Taluk, Madurai District (in short 'subject property'), without following the due process of law.

2. Heard Mr.Veera Kathiravan, learned Senior counsel for Mr.Gangai Amaran, learned counsel for the petitioner and Mr.Baskarapandian, learned Special Government Pleader for all the respondents.

3. There is no dispute that the petitioner is an encroacher. However, the short point on which the impugned order is assailed is that the petitioner has, in fact, applied for an assignment patta before the District Collector as early as on 10.07.2017 in respect of the subject property. A copy of the aforesaid application along with proof of filing of the same, is placed before the Court.

4. The petitioner claims to be in enjoyment and possession of the subject property, admittedly Government poramboke waste land, since several years. The petitioner is a person of no means and herself and several of her relatives are stated to have set up their homes in the subject property. Door numbers have been allotted and electricity connection and ration cards have been issued by the authorities. The lands are stated to be assessed to property tax.

5. While this is so, the petitioner, as well as other residents in the vicinity of the subject property were in receipt of notices dated 28.02.2017 for eviction from the properties under their occupation. A Writ Petition in W.P(MD)No.4535 of 2017 was filed challenging the notices and was disposed of by this Court by order dated 02.08.2017 directing the respondents to remove any encroachments thereupon. It was made clear that such eviction will have to be carried out in accordance with law and the exercise shall be completed within a period of three months from the date of receipt of the order.

6. Thereafter, the lands appeared to have been surveyed on 30.12.2017 and notice dated 26.12.2017 and 08.02.2018 issued by the third respondent threatening eviction, if the encroachers do not vacate the premises within 21 days. The notice states that



the encroachments have been constructed on a water body and this allegation is denied by the petitioner.

7. The aforesaid notice came to be challenged in W.P(MD) No.2945 of 2018 and by order dated 14.02.2018, the petitioner was directed to treat the aforesaid notice as a show-cause notice and submit objections to the same that were to be considered by the fourth respondent on merits and in accordance with law.

8. Objections came to be filed by the petitioner that were rejected by way of the present impugned order.

9. It is seen that objections dated, 21.02.2018 contain a specific statement to the effect that the petitioner's application for issuance of assignment patta dated 10.07.2017 is still pending before the District Collector. We find that this is to be an admitted fact.

10. In the light of the same, we direct the District Collector, Madurai District, to dispose of application dated 10.07.2017 filed by the petitioner requesting the issuance of an assignment patta in respect of the subject properties under occupation by her, within a period of four weeks from the date of receipt of this order after affording opportunity to the petitioner to appear and make her submissions. Status-quo shall be maintained by the respondents pursuant to order dated 04.06.2018, till such time.

11. In the event, the application is decided adverse to the petitioner, the impugned order shall stand automatically revived. In the event the claim of the petitioner for issuance of patta is accepted, consequential orders in line with the same shall be passed by the fourth respondent in negation of the present impugned order dated 04.06.2018 within a period of two weeks therefrom.

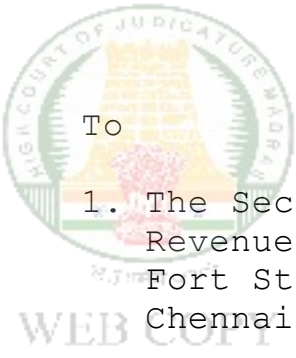
12. The writ petition is disposed of in the aforesaid terms. No Costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar (CS-III)



To

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4. The Assistant Engineer,
Public Works Department / W.R.O.
Periyar Main Canal Section,
Sub Division No.1,
Madurai 2.

+1cc to Mr.G.Gangai Amaran, Advocate SR.No.74236

+1cc to SPECIAL GOVERNMENT PLEADER, SR.No.73850

Pm

MK/SKN/SAR 3/10.08.2018/4P/7C

W.P(MD)No.14966 of 2018
18.07.2018