



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.02.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI

W.P.(MD) No.18658 of 2017

M.Louis Raj

... Petitioner

-vs-

1.The District Collector
Madurai District
Madurai

2.The Revenue Divisional Officer
Divisional Office
Usilampatti, Madurai District

3.The Tahsildar
Thirumangalam Tahsildar Office
Thirumangalam

4.D.Thangaraj

5.A.Pandi

6.Alagumalai
(R4 to R6 are impleaded vide order
dated 13.10.2017 in W.M.P.(MD)
No.15339 of 2017)

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus to direct the respondents to remove the encroachments made in Sy.No.38, Odai Poramboke at Vagaikulam Village, Thirumangalam Taluk, Madurai District, by considering the representation of the petitioner, dated 25.07.2017.

For Petitioner : Mrs.P.Jessi Jeeva Priya

For Respondents : Mr.D.Muruganandam
Addl. Govt. Pleader for R1 to R3
Mr.P.Ganapathi Subramanian for R4
No appearance for R5 and R6

O R D E R

[Order of the Court by T.S.SIVAGNANAM, J.]

Heard Mrs.P.Jessi Jeeva Priya, learned counsel appearing for the writ petitioner, Mr.D.Muruganandam, learned Additional Government Pleader appearing for the respondents 1 to 3 and Mr.P.Ganapathi Subramanian, learned counsel appearing for the fourth respondent and perused the materials produced.

2. The petitioner seeks for issuance of a writ of mandamus to direct the respondents to remove the encroachments made in Survey No.38, Odai Poramboke at Vagaikulam Village, Thirumangalam Taluk, Madurai District, by considering his representation, dated 25.07.2017.

3. The Tahsildar, Thirumangalam Taluk / third respondent has filed a counter affidavit, in which he has admitted that the following four persons have encroached the odai poramboke in Survey No.38/1 at Vagaikulam Village:

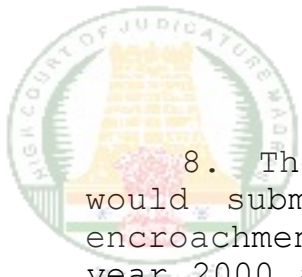
Sl.No.	Name of the Encroacher	Extent encroached in Sq.Meters	Status of encroachment
1.	Guruvammal	0.00.68	House
2.	Sekar	0.00.56	House
3.	Pounthai	0.00.67 0.00.32	Pucca house Tiled house
4.	Alagumalai	0.00.29	Tiled shed

4. The third respondent has further stated that action is to be taken to evict the encroachments by due process of law by invoking the provisions of the Tamil Nadu Land Encroachment Act, 1905.

5. Further, the third respondent has rightly referred to the decision of the Honourable Full Bench of this Court in *T.K.Shanmugam vs. State of Tamil Nadu*, reported in 2015 (6) CTC 369 and rightly stated that appropriate orders may be passed in this writ petition.

6. Since it is confirmed that there is an encroachment as per the details mentioned above, the third respondent / competent authority should proceed further by strictly following the provisions of the Tamil Nadu Land Encroachment Act, 1905.

7. The learned counsel appearing for the petitioner submitted that though the petitioner is satisfied with regard to the steps to be taken for the removal of the encroachments made by the aforementioned four persons, the fourth respondent has put up a construction recently in an extent of about 1 1/2 Cents and managed to obtain an one time assignment patta and the counter affidavit of the third respondent does not propose any action against the aforementioned four persons.



8. The learned counsel appearing for the fourth respondent would submit that there is no odai poromboke and there is no encroachment and Patta was obtained by the fourth respondent in the year 2000 and even at that point of time, construction has been put up. However, it is not clear as to the date of the construction, because the fourth respondent does not have the planning permission. However, we direct the third respondent to look into the said aspect also as the grant of one time assignment patta has been referred to in the counter affidavit filed by the third respondent.

9. Accordingly, the writ petition is disposed of by directing the third respondent to initiate eviction proceedings after following the procedure under the Tamil Nadu Land Encroachment Act, 1905, against the parties mentioned supra and also taking note of the fact that one time assignment patta has been granted in favour of the fourth respondent and complete the entire process within a period of eight weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar(ADI)

/True Copy/

Sub-Assistant Registrar

To:

- 1.The District Collector,
Madurai District,
Madurai.
- 2.The Revenue Divisional Officer,
Divisional Office,
Usilampatti, Madurai District.
- 3.The Tahsildar,
Thirumangalam Tahsildar Office,
Thirumangalam.

+One cc to M/s.P.Jessi Jeeva Priya, Advocate, SR.No.47852

+One cc to The Special Government Pleader, SR.No.48299

krk

RL/6C/3P/SKN/RSK/SAR4/27/2/2018

W.P.(MD) No.18658 of 2017