



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE T.RAJA

and

THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.P. (MD) No.20854 of 2017

and

W.M.P. (MD) Nos.17145 of 2017 and 355 of 2018

Kumar

... Petitioner

Vs.

1.The District Collector,
Trichy District,
Trichy.

2.The Revenue Divisional Officer,
Musiri,
Trichy District.

3.The Tahsildar,
Musiri,
Trichy District.

... Respondents

PRAYER: The writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the respondents, their men, agents and servants from dispossessing the petitioner without following due process of law in respect of the petitioner's property comprised in Survey No.613 of Jadamangalam Village, Musiri Taluk, Trichy District based on the petitioner's representation dated 09.11.2017.

For Petitioner : Mr.A.Joel Paul Antony

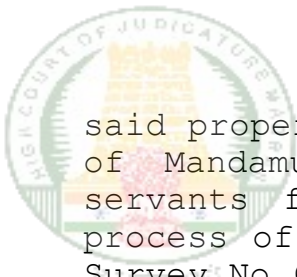
For Respondents : Mr.V.Anand

Government Advocate

ORDER

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

The petitioner claims to be in possession and enjoyment of the land in question covered in Survey No.613/2, Jadamangalam Village, Musiri Taluk, Trichy. Apprehending dispossession of the



said property, he has approached this Court seeking issuance of Writ of Mandamus forbearing the respondents, their men, agents and servants from dispossessing the petitioner without following due process of law in respect of the petitioner's property comprised in Survey No.613/2.

WEB COPY

2.The learned Counsel appearing for the petitioner would submit that the petitioner has been in possession and enjoyment of the land covered in Survey No.613/2 at Jadamangalam Village, Musiri Taluk, Trichy District and also has been paying all the taxes to the Government without any default. Moreover, he has obtained electricity service connection and the same also stands in the name of the petitioner. The petitioner also claims that the said property is his ancestral property. Moreover, he is residing in the Grama natham land by planting various crops and growing coconut trees in his property. While so, one Mr.Ganesan belongs to the same village has given a false complaint as if the petitioner has been illegally occupying the property in question. On the basis of the representation given by a third party, the revenue officials and the respondents made an attempt to dispossess the petitioner without following the due process of law.

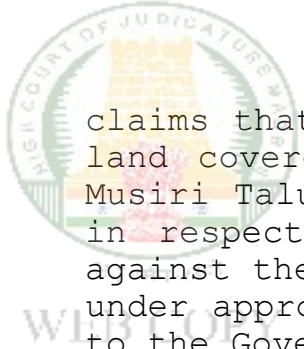
3.The learned Counsel appearing for the petitioner would further submit that all of a sudden, on 09.11.2017, at about 02.00 p.m., some persons claiming to be officers from the respondent department visited the land in question and given only four days time to the petitioner to remove all the crops and other articles. When the petitioner has been paying all taxes to the Government without any default, the respondents should not evict the petitioner without following due process of law.

4.A detailed counter affidavit has been filed by the Tahsildar, Musiri Taluk, Trichy District.

5.The learned Special Government Pleader appearing for the respondents submitted that the petitioner is a wealthy person owning land in Survey No.612 and he has also constructed a house and living therein. While so, he has unauthorisedly encroached an extent of 18 cents of Government land in Survey No.613 for his personal gains. Since the said Government land is required for a bona fide public purpose of constructing a Milk Chilling Plant by the Aavin authorities, an inspection took place on the site in question. Now, they are initiating action to evict the encroachers under the provisions of Land Encroachment Act, 1905. Therefore, the petitioner cannot come to this Court.

5.Heard the learned Counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents.

6.We are unable to find any substance of merits on the stand taken by the learned Special Government Pleader when the petitioner



claims that he has been in peaceful possession and enjoyment of the land covered in Survey No.613/2 situated at Jadamangalam Village, Musiri Taluk, Trichy District by paying all taxes to the Government in respect of the land. However, the respondents shall proceed against the petitioner in the manner known to law by issuing notice under appropriate Act, if he is an encroacher of the land belonging to the Government.

7.With the above observation, this Writ Petition is disposed of. No costs. Consequently the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(C.O)

/True Copy/

Sub Assistant Registrar

SRM
To

- 1.The District Collector,
Trichy District,
Trichy.
- 2.The Revenue Divisional Officer,
Musiri,
Trichy District.
- 3.The Tahsildar,
Musiri,
Trichy District.

+1cc to Mr.A.Joel Paul Antony, Advocate in SR No.81825
+1cc to Spl Government Pleader, SR No.82519

**W.P. (MD) No.20854 of 2017
and
W.M.P. (MD) Nos.17145 of 2017 and 355 of 2018**

NM/SV/SAR 4/20.09.18/3P/6C