



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.03.2018

CORAM:

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THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE Mrs.JUSTICE R.THARANI

Writ Petition (MD).No.22563 of 2017
and
W.M.P. (MD)Nos.18857 of 2017 and 5043 of 2018

R.Chinnasamy

... Petitioner

Vs.

1.The Tahsildar,
Taluk Office,
Periyakulam
Theni District.

2.The Block Development Officer,
Periyakulam Panchayat Union,
Vadugapatti Periyakulam taluk,
Theni District.

3.The Secretary,
Vadaputhupatti Panchayat,
Vadaveeranayackanpatti Hamlet,
Unchampatti post,
Periyakulam Taluk,
Theni District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents not to interfere with the petitioner's peaceful possession and enjoyment of the land in S.No.1513, to an extent of 0.35 hectares equal to 0.86 cents of land situated at Vadaveeranayackanpatti, Thenkarai, Periyakulam taluk, Theni District, unless by due process of law.

For Petitioner

: Mr.R.Vijayakumar

For Respondent No.1

: Mr.D.Muruganantham



For Respondents 2 and 3 : Mr.R.Velmurugan

ORDER

(Order of the Court was made by **T.S.SIVAGNANAM, J**)

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Heard Mr.R.Vijayakumar, learned counsel appearing for the petitioner, Mr.D.Muruganantham, learned Additional Government Pleader appearing for the first respondent and Mr.R.Velmurugan, learned Counsel appearing for the respondents 2 and 3.

2.This writ petition has been filed praying for issuance of writ of mandamus, to direct the respondents not to interfere with the petitioner peaceful possession and enjoyment of the land in S.No.1513, to an extent of 0.35 hectares equal to 0.86 cents of land situated at Vadaveeranayackanpatti, Thenkarai, Periyakulam taluk, Theni District. Admittedly the petitioner was granted 2C assignment patta in the year 1997, in the respect of three coconut trees standing in Government Promboke lands. As per the terms and conditions of the patta, the petitioner is entitled to usufructus from the three coconut trees. The petitioner, who owned vast extent to land, which is adjacent to the Government land and planted plantation trees. When the action was initiated, the petitioner dragged the respondent to Court by filing W.P.(MD)No.24673 of 2016 and 12606 of 2017. These writ petitions were disposed of by orders dated 22.12.2016 and 21.08.2017 respectively. However, it appears that the Court was not appraised of the factual position. The only right granted to the petitioner was 2C patta and nothing more. The petitioner is a rank encroacher of the Government property. The petitioner, being rich pattadar, who is an owner of the land adjacent to the Government land, cannot claim that he should be evicted only by due process of law. The petitioner has illegally entered into the Government land under the guise of the 2C patta. The action initiated by the respondent is perfectly correct.

3.The learned Additional Government Pleader would submit that 2C patta was cancelled by the Tahsildar by an order, dated 12.06.2017, after notice to the petitioner on the ground that three coconut trees have dried and fallen off on account of water shortage. Therefore, there is no question of any right in favour of the petitioner that he is entitled to be in occupation of the Government land. Therefore, the action initiated by the respondent is perfectly valid.



4. For the above reasons, the writ petition fails and is dismissed. No Costs. Consequently, W.M.P.(MD)Nos.18857 of 2017 and 5043 of 2018 is also closed.

Sd/-

Assistant Registrar (CS-II)

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/True Copy/

Sub Assistant Registrar

mrn

To

The Tahsildar, Taluk Office,
Periyakulam, Theni District.

+1CC to Spl.Government Pleader Sr.No.54602

+1cc to R.Velmurugan, Advocate, SR.No.54120

+1CC to Mr.R.Vijayakumar, Advocate Sr.No.54472

GJM/DD/SAR-2-4.6.18-3p-5C

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