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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.11.2018

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

AND

THE HONOURABLE MRS. JUSTICE R.THARANI

W.P. (MD) No.23372 of 2017

S.Karuppaiah

: Petitioner

Vs.

1. The Secretary to the Government
Revenue Department
Government of Tamilnadu,
St. George Fort, Chennai.
2. The District Collector,
Pudukottai District,
Pudukottai.
3. The Revenue Divisional Officer,
Aranthangi, Pudukottai District.
4. The Tahsildar,
Avudayarkoil Taluk,
Pudukottai District.
5. The Executive Engineer,
Public Works Department
Building Construction and Maintenance
Divisional Officer,
Pudukottai.
6. The Assistant Executive Engineer,
Public Works Department
Building Construction and Maintenance
Sub Divisional Officer,
Aranthangi, Pudukottai District.
7. The Inspector of Police,
Meemisal Police Station,
Pudukottai District.

8. R.Sundaram

: Respondents

(R8 has been impleaded as per order
of this Court dated 12.11.2018
in W.M.P.No.19867/2018)



respondents from evicting the petitioner from his agricultural land in Survey no.1-1 of Velivayal Village, Avudaiyarkoil Taluk, Pudukottai District on the guise of removal of an encroachment without following due process of law.

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For Petitioner : Mr.M.Chandrasekaran
For Respondents : Mr.R.Sethuraman for R1 to R7
Additional Government Pleader
Mr.P.Ganapathi Subramaniam for R8

ORDER

[Order of the Court was made by R.SUBBIAH, J]

This Writ Petition has been filed to forbear the respondents from evicting the petitioner from his agricultural land in Survey No.1-1 of Velivayal Village, Avudaiyarkoil Taluk, Pudukottai District on the guise of removal of an encroachment without following due process of law.

2.It is the case of the petitioner that agricultural land in S.No.1-1 for an extent of around 80 cents situate at Velivayal Village were allotted to petitioner's father, since he has undergone Third Intensive Family Planning Campaign and the said land was allotted only for the purpose of agricultural activities. Like wise, one Sinnappan was also allotted 80 cents of land by the Government. However, the said Sinnappan entrusted the said land in favour of the petitioner's father through an unregistered sale deed dated 03.08.1980. Apart from the above lands, the petitioner purchased 75 and 47 cents of land in S.No.1-1 on 29.09.1973 and 02.10.1982 respectively. Thus, the petitioner is in occupation of the land in S.No.1-1 of Velivayal Village to an extent of 3 acres and 17 cents. While so, in the month of September, 2017, the 6th respondent, ie., the Assistant Executive Engineer, disturbed the possession of the land. But this was objected to by the petitioner and their brothers. However, the 6th respondent informed them that they would evict the petitioner from the land and therefore, fearing about eviction, the petitioner is before this Court with this petition.

3. The Writ Petition has been opposed by the fifth respondent by filing a counter affidavit, wherein, it has been stated that the lands in S.No.1-1 have not been allotted to the petitioner's father. Similarly, no allotment was made in respect of one Sinnappan also and the land in S.No.1-1 is a waterbody. The field map and other records would prove that S.No.1-1 has been classified as Velivayal Eri to an extent of 149.44.5 Hectares, which is under the maintenance of the fifth respondent.

4. While so, on 22.07.2016, a complaint came to be received from the public stating that the waterbody has been encroached by the petitioner, while requesting for removal of the illegal



encroachments. On the basis of the complaint, the fourth respondent made an enquiry and submitted a report on 29.07.2016 stating that 119 persons encroached the waterbodies and are enjoying the same in an illegal manner.

5. However, irrespective of the contention raised in the petition and counter affidavit, we are of the opinion that if there is any intention on the part of the respondents to evict the petitioner from the said land, the respondents are directed to do the same in accordance with law by issuing proper notice and by conducting the survey with the help of field map and documents and issue show cause notice and afford an opportunity of hearing to the petitioner and thereafter, pass appropriate orders with regard to eviction. The entire exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.

4. With the above direction, this writ petition is disposed of. No costs.

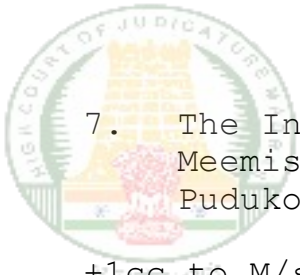
Sd/
Assistant Registrar(Records)

/True copy/

Sub Assistant Registrar(CS-I)

To

1. The Secretary to the Government
Revenue Department
Government of Tamilnadu,
St. George Fort, Chennai.
2. The District Collector,
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Building Construction and Maintenance
Sub Divisional Officer,
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7. The Inspector of Police,
Meemisal Police Station,
Pudukottai District.

+1cc to M/s.Special Government Pleader, SR.No. 95409

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W.P. (MD) No.23372 of 2017

Dated: 14.11.2018

RR

KK/RSK/SAR-1/18.12.2018/4P-9C