



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.09.2018

CORAM :

**THE HONOURABLE MR.JUSTICE T.RAJA
AND
THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY**

W.P (MD) No.20570 of 2018
and
W.M.P (MD) Nos.18312 & 18313 of 2018

Fr.J.R.Jeyaraj

... Petitioner

vs.

1. The District Collector,
Kanyakumari District @ Nagercoil,
Kanyakumari District.
2. The Revenue Divisional Officer,
Nagercoil,
Kanyakumari District.
3. The Tahsildar,
Thovalai Taluk
Thovalai
Kanyakumari District.
4. The Revenue Inspector
Azhagiyapandipuram
Thovalai
Kanyakumari District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for the records of the impugned notice of the 4th respondent issued under Section 7 of the tamil Nadu Land Encroachment Act, 1905 (Act III of 1905) dated 16.08.2018, quash the same and consequently direct the respondents to grant patta to the petitioner in respect of the portion of the land under his occupation or in alternative to grant lease in favour of the petitioner considering his reply dated 28.08.2018.

For Petitioner : Ms.L.Victoria Gowri

For Respondents : Mr.V.Anand

**O R D E R**

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

This writ petition has been directed against the impugned notice under Form III read with Section 7 of the Tamil Nadu Land Encroachment Act, 1905 calling upon the petitioner to explain why action should not be taken for removal of the encroachment made in S.No.399 to an extent of 0.07.80 Ares, S.No.401/2 to an extent of 0.75.05 Ares, S.No.402/1 to an extent of 0.41.0 Ares and S.No.409/1 to an extent of 0.42.0 Ares, which are classified as Tharisu land and had been encroached by way of putting up construction therein by the petitioner herein.

2. Learned counsel for the petitioner would submit that as the said land was in peaceful possession and enjoyment of his vendor, finding that there is no encumbrance, the same was purchased under unregistered sale deed dated 10.05.2005. Subsequently, he has also been issued with B Memo, dated 19.08.2006. Though the petitioner has also immediately given a detailed reply on 28.08.2018 to the impugned notice explaining that the lands in question covered in the aforementioned survey numbers were all in occupation and enjoyment by his predecessor in title/vendor and the same were purchased by the petitioner under the aforementioned unregistered sale deed, the said explanation till date has not been considered and no order has been passed. Apprehending further coercive action, the petitioner has been advised to come to this Court seeking to quash the impugned notice dated 16.08.2018.

3. We are unable to find any merit in the writ petition for two reasons.

4. Firstly, when the petitioner was issued with the impugned notice dated 16.08.2018 calling upon him to submit his explanation as to why action should not be taken for removal of encroachment made in the aforementioned survey numbers, as he has put up construction in the land, which do not belong to him and he has also given a reply on 28.08.2018, it is not known how the petitioner, who is running a Medical College can purchase lands through unregistered sale deed.

5. Secondly, there is no document whatsoever relating to the ownership or title of the said land has been placed before us except the unregistered sale deed, which is not going to confer any title in favour of the petitioner. As the petitioner has already given his explanation to the impugned notice and without waiting for the further order, the petitioner cannot maintain the present writ petition.

<https://hcservices.ecourts.gov.in/hcservices/>

6. For these reasons, the writ petition fails and the same is



dismissed. No costs. Consequently connected Miscellaneous
Petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar (CS-IV)

To

1.The District Collector,
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Kanyakumari District.

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3.The Tahsildar,
Thovalai Taluk
Thovalai, Kanyakumari District.

4.The Revenue Inspector
Azhagiyapandipuram
Thovalai, Kanyakumari District.

+ 1 CC TO MS.L.VICTORIA GOWRI , ADVOCATE IN SR NO.87829
+ 1 CC TO SPECIAL GOVERNMENT PLEADER, IN SR NO.87772

RR

BU/NM/SV/SAR-IV :14.11.2018 : 3P/7C

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