

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.31159 of 2007
and M.P.No.1 of 2007

P.Thangamuthu

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Petitioner

Vs

1. The District Collector,
Perambalur District,
Perambalur.
2. The Tahsildar, Kunnam Taluk,
Perambalur.
3. The Revenue Inspector,
Kulanganatham, Kunnam Taluk,
Perambalur, Perambalur District.
4. The Village Administrative Officer,
No.85, Chillakudi North,
Kunnam Taluk,
Perambalur District.

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Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned notice dated 17.09.2007 issued by the third and fourth respondents under Section 5 of the Tamil Nadu Land Encroachment Act and quash the same and consequently forbearing the respondents or their subordinates or servants from interfering with the peaceful enjoyment and possession of the petitioner in respect of the property consisting of tiled house and land admeasuring 30 sq.mt.at No.85, Chillakudi North, Kunnam Taluk, Perambalur District.

For Petitioner

: Mr.C.Ravichandran

For Respondents

: Mr.J.Ramesh,
Additional Government Pleader

O R D E R

The case of the petitioner is that he is a labourer and is in occupation of 50 Sq.M. of land comprised in S.No.63/1 of Methal Village, No.85, Chillakudi North, Kunnam Taluk, Perambalur District, which according to him, is classified as Grama Natham. He is in possession of the said property for the past more than 30 years. He put up superstructure in the said land and has been paying property tax regularly without any default. The petitioner states that there are about 30 people living in the said survey number putting up their respective superstructures and a school is also situated there. While so, the petitioner received the impugned notice issued under Section 5 of the Tamil Nadu Land Encroachment Act, terming him as an encroacher of the school land, to showcause as to why he should not be removed from the property in question. The petitioner states that the respondents 3 and 4 have no jurisdiction or authority under Section 5 of the Tamil Nadu Land Encroachment Act, to issue such notice.

2.With the above background, the present writ petition has been filed by the petitioner.

3.When this writ petition was heard earlier, this Court directed the learned Government counsel to produce the 'A' register. Accordingly, the said register has been produced before this Court today, which classifies the properties under three different categories. When this Court posed a question to the learned Additional Government Pleader as to whether the property in question is a Grama Natham or it is classified under some other category, he is not sure about the classification.

4.In view of the above stated circumstances, the impugned proceedings is set aside, leaving it open to the authorities to proceed further in respect of the claims agitated by the petitioner by issuing proper notice to the parties concerned and passing appropriate orders in accordance with law.

5.Since the provisions of Land Encroachment Act cannot be invoked against occupants of Grama Natham who own such lands as house sites, as held by this Court in Krishnamurthy Gounder v. Government of Tamil Nadu, reported in 2002 (3) CTC 221, the authorities shall take note of the same while passing orders.

6.The writ petition is disposed of accordingly.
Consequently, the connected miscellaneous petition is closed.
No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

KM

To

1. The District Collector,
Perambalur District,
Perambalur.
2. The Tahsildar, Kunnam Taluk,
Perambalur.
3. The Revenue Inspector,
Kulanganatham,
Kunnam Taluk, Perambalur,
Perambalur District.
4. The Village Administrative Officer,
No.85, Chillakudi North,
Kunnam Taluk,
Perambalur District.

+1cc to Mr.C.Ravichandran, Advocate, S.R.No.3135
+1cc to the Government Pleader, S.R.No.3962

सत्यमेव जयते

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CS/23/01/2019

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