

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :17.07.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.21871 of 2009

and

WMP.No.1 of 2009

R. Murugesan

..Petitioner

Vs.

1. The District Collector,
Coimbatore District,
Coimbatore.

2. The District Collector,
Tiruppur District,
Tiruppur.

3. The Revenue Divisional Officer,
Tiruppur.

4. The Tahsildar,
Taluk Office,
Tiruppur.

5. The Village Administrative Officer,
Veerapandi Village,
Tiruppur.

6. The Executive Officer,
Veerapandi Town Panchayat,
Tiruppur.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of mandamus or any other appropriate writ or direction forbearing the respondents from laying concrete roads, constructing group houses and public toilets at Survey No.481/3 Patta No.776 at No.24, Veerapandi Village, Tiruppur, to an extent of 4.52 acres, which is the property of the petitioner.

For Petitioner

: Mr.S. Parthasarathy

For Respondents

: Mr. K. Bhuvaneswari,

Additional Government Pleader

O R D E R

Writ petition is filed to issue a direction forbearing the respondents from laying concrete roads, constructing group houses and public toilets at Survey No.481/3 Patta No.776 at No.24, Veerapandi Village, Tiruppur, to an extent of 4.52 acres, which is the property of the petitioner.

2. The petitioner claimed that he is the owner of the property in Survey No.481/3, Patta No.776 at No.24, Veerapandi Village, Tiruppur Taluk to an extent of 4.52 acres.

3. During the Third Five Year Plan, the first respondent allotted 4.52 acres of barren land to one Munian for cultivation and development by proceedings dated 10.03.1967. As the said Munian could not manage the said land, he subsequently surrendered the same to the first respondent on 21.08.1968. Thereafter, the said land was allotted to the petitioner. After allotment, the petitioner obtained a loan of Rs.2560/-, dug a well and put up a house therein. Then, on 4.06.1969, the respondents granted Patta No.766 in favour of the petitioner, and the petitioner was in peaceful possession and enjoyment of the property.

4. While so, on 12.11.1988, the villagers of Veerapandi based on the ill advice of politicians, by overnight occupied the entire property by damaging the crops and farm and put up huts. In spite of several complaints to the respondents, no action has been taken. Further, the respondents also took steps to allot and grant patta to the encroachers.

5. The petitioner filed a writ petition in W.P.No.9630 of 1989 and obtained an order of interim injunction on 25.07.1989 restraining the respondents from granting patta to the encroachers. However, the said writ petition was disposed of with liberty to the petitioner to seek alternative remedy before the appropriate forum. Accordingly, the petitioner filed a suit in O.S.No.193/1996 on the file of the Court of District Munsif, Tiruppur for declaration, recovery of possession and mandatory injunction against the respondents, including the respondents herein. The said suit was decreed on 17.07.1997 and thereafter the respondents filed an appeal in A.S.No.20 of 2000 and 19/2000 before the Sub Court, Tiruppur and the said A.S. was transferred to Fast Tract Court, IV Court, Tiruppur and renumbered as A.S.No.20 of 2002 and 19 of 2002 wherein an order of interim stay was granted but subsequently on 05.07.2002 the interim stay was vacated. Thereafter the petitioner filed Execution Petition in E.P.No.91 of 1997 before the District Munsif Tiruppur. After several adjournments, delivery was ordered on 20.07.2006. Since no action has been taken for delivery, the petitioner filed

CRP.No.832 of 2008 before this Court for direction to the Execution Court to complete the execution within three months but till date no action has been taken.

6. The learned counsel for the petitioner would submit that after filing the E.P. the petitioner also filed CRP and then Contempt Petition. The Contempt Petition was closed based on the undertaking given by the respondent.

7. The learned Additional Government Pleader would state that pursuant to the decree, the petitioner filed E.P. wherein delivery was also ordered. Further, the petitioner has also filed a C.R.P. seeking direction to the Executing Court. Since one of the petitioners had appropriate recourse through civil proceedings, the present Writ Petition before this court is not maintainable.

8. Considering the fact and circumstances of the case and together with the fact that on the very same issue, the petitioner had approached the Civil Court and the Civil Court has passed an order in favour of the petitioner. Thereafter the E.P. and Contempt Petition were filed. The Contempt Petition was closed on the undertaking given by the Government. Accordingly, the petitioner is granted liberty to file appropriate petition before the competent authority, if he finds any threat to his possession and enjoyment of the property. If such representation is filed before the said Competent authority, the said competent authority shall pass appropriate orders. With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The District Collector, Coimbatore District, Coimbatore.
2. The District Collector, Tiruppur District, Tiruppur.
3. The Revenue Divisional Officer, Tiruppur.
4. The Tahsildar, Taluk Office, Tiruppur.
5. The Village Administrative Officer, Veerapandi Village, Tiruppur.
6. The Executive Officer, Veerapandi Town Panchayat, Tiruppur.

+2cc to M/s.P.Subba Reddy, Advocate Sr.No. 60539

AKM/24.09.19/3P- 9C /

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