

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.06.2019

CORAM

THE HONOURABLE Mr.JUSTICE M.DHANDAPANI

W.P. 26002 of 2008
and
M.P. 1 of 2008

V.Kesavan

... Petitioner

Vs

1. The District Forest Officer,
Thiruvallur District.

2. The President,
Sengarai Panchayat,
Uthukkottai Taluk,
Thiruvallur District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, to forbear the respondents, their men, agents, servants or subordinates or anybody claiming under them from in any way interfering with the petitioner's peaceful possession and enjoyment of the property of an extent of 4 acres of punja land in S.No.303/A in Sengarai Village, Uthukkottai Taluk, Thiruvallur District.

For Petitioner : Ms.Selvi George

For Respondents : Mr.G.B.Rajesh,
Govt. Pleader (Forest)

O R D E R

This Writ Petition has been filed seeking a direction to forbear the respondents, their men, agents, servants or subordinates or anybody claiming under them from in any way interfering with the petitioner's peaceful possession and enjoyment of the property of an extent of 4 acres of punja lands in Surve No.303/A in Sengarai Village, Uthukkottai Taluk, Thiruvallur District.

2. The case of the petitioner is as follows :-

The petitioner belongs to a most backward community and economically weaker section and for the purpose of making their livelihood, they are doing agricultural work and the petitioner is using the land for cultivation of paddy, which is the only source for their livelihood. The subject land is natham poramboke as per the revenue record and the 1st respondent is no way connected with the land and the subject land is neither belongs to the respondents nor it has been handed over to them by any authority. The scheduled land is also not a forest land as defined under the Tamil Nadu Forest Act. Hence, the 1st respondent has no authority to interfere with the petitioner's peaceful possession and enjoyment of his property. The petitioner has further averred that by spending huge money, he has raised crops and getting very meagre income. The petitioner has paid the property tax to the revenue department and the petitioner is enjoying the subject property for more than 40 years without any hindrance from any quarters. While being so, all of a sudden, the 1st respondent has visited the property and informed that they are going to raise plantation in the petitioner's land and informed to vacate the subject property, failing which, they will evict the petitioner with the help of Government machinery. Aggrieved by the said action, the petitioner has filed the present Writ Petition with the above said prayer.

3. The learned counsel appearing for the petitioner would submit that the possession of the petitioner did not dispossess by any authority and if they want to evict the petitioner, the respondents can act only in the manner known to law and not by any other law. Hence, the illegal activities of the 1st respondent is unsustainable one and unlawful. Accordingly, he prayed to allow this Writ Petition.

4. Mr.G.B.Rajesh, learned Government Pleader appearing for the respondents has filed a counter affidavit and the sum and substance of the counter affidavit are as follows :-

First of all, the prayer in the Writ Petition is not maintainable and the survey number mentioned in the writ affidavit viz., survey No.303/A of Sengarai Village is not available in the revenue records and the property tax receipts are not related to the survey No.303/A mentioned in the Writ Petition prayer. Further, the Government has introduced a scheme for planting saplings in the uncovered area and in order to increase the forest cover in Tiruvallur District, a study was conducted by the authority and the study reveals that Tiruvallur District is less than 6% of the geographical area, which is far below the expected norms of 33%. Further, in consultation with the villagers and local panchayat, this village was selected for

implementing the Tamil Nadu Afforestation Programme (TAP) funded by Japan, Bank of International Cooperation during the year 2008-2009 and the said scheme was implemented from 1997 to 2009 in Tamil Nadu covering villages. The planting works was carried out in the outside forest under three components viz., (1) Lower zone, (2) Upper Zone and (3) Buffer zone besides welfare activities to the weaker section and the planted area was protected by the Village Forest Council of Sengarai Village. Accordingly, the Forest department has selected 250 hectares of waste lands and it was utilised for plantation purpose by the forest department. As per the Panchayat and Grama Sabha resolution of Sengarai Village, the land comes under Village Forest Council and the Village Forest Council has been proposed and decided to plant miscellaneous plants in the area from the fund allotted under Tamil Nadu Afforestation Programme. He has further averred that the land is not available in Survey No.303/A as per the revenue records.

5. It is the case of the petitioner is that he is in possession and enjoyment of the land set out in the prayer portion of the Writ Petition. However, the Government filed a counter stating that Survey No.303/A is not available in the revenue records and further, the petitioner did not produce any record to show that the petitioner is enjoying the land in Survey No.303/A immemorial. On perusal of the property tax receipts produced by the petitioner, it is not related to Survey No.303/A and except the serial number, no proof was available to show that the petitioner is in occupation of the above said land. Thus, the disputed fact is that whether the petitioner continues to be in possession or not cannot be decided in the Writ Petition. Hence, I am not inclined to grant any relief to the petitioner. Accordingly, the Writ Petition stands dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

rpp

To

1. The District Forest Officer,
Thiruvallur District.

2. The President,
Sengarai Panchayat,
Uthukkottai Taluk,
Thiruvallur District.

+1cc to Mr.Selvi George, Advocate Sr.49690

W.P. 26002 of 2008
and
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