

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :20.08.2019

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.6824 of 2011

and

M.P.No. 1 of 2011

N.Venkatesan

...Petitioner

Vs.

1. The District Collector,
Villupuram District.

2. The Tashildar, Gingee,
Villupuram.

3. The District Forest Officer,
Villupuram.

....Respondents

Prayer: The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorari, to call for the records on the file of the 1st respondent in proceedings Na.Ka.Aa.10-46237-2010 and dated 26.02.2011 and quash the same as illegal, incompetent and without jurisdiction.

For Petitioner : M/s.Srimathi

For Respondents: Mr.J.Ramesh, AGP
for R1 & R2.
Mr.G.B.Rajesh
for R3.

O R D E R

This writ petition is filed by the Writ Petitioner, to issue a writ of Certiorari, calling for the records on the file of the 1st respondent in proceedings Na.Ka.Aa.1046237-2010, dated 26.02.2011 and to quash the same as illegal, incompetent and without jurisdiction.

2. The case of the petitioner is that the property at Survey No. 20/1, Illodu Villagem Gingee Taluk is under the occupation of Ponnammal, the petitioner father's sister. She was in occupation for over five decades. She was a dependent widow. The

aforesaid land is classified as "eri Poromboke". It was a wrong classification, since there was no water or canal or any source for feeding the alleged lake. Ponnammal while she was in occupation of the land sought for assignment of the land from the Government of Tamil Nadu. Her request was considered favourably by the local authorities, the Union Engineer, Vallam as well as the Public Works Department. Recommendation was sent to the Tashildar as early as in the year 1967 in response to letter dated 06.12.1967 that by assignment of land in favour of Ponnammal, no prejudice would be caused. The Executive Engineer, Public Works Department on 26.03.1970 had said that the tank in survey no. 20/1 is not the one which belongs to the department and the department has no objection for grant of patta. The then Sub-Collector also recommended the grant of patta to Ponnammal on 31.07.1972. Despite which no orders were passed and she continued to be in occupation till her death.

3. During her lifetime, threat to her possession was made and a suit was instituted in O.S.No. 903/1973, on the file of the District Munsif, Tindivanam. The suit was decreed on 29.06.1974. An appeal was filed by the adversary and it also ended in her favour. The Court observed that Ponnammal was not only in occupation of the property, but the evidence on record reveals her settled possession. Prior to her death Ponnammal had moved the High Court in W.P.No. 18056/1993, and this Court had directed the Government to consider her case for assignment, Ponnammal submitted an application for processing the papers. Meanwhile, she died and the petitioner's father continued the proceedings by filing appropriate application before the 1st respondent. No orders were passed by the District Collector. In the meanwhile, the petitioner's father also expired and on his demise, the petitioner continued to enjoy the property along with her wife.

4. The learned counsel appearing for the petitioner would submit that the petitioners have planted punja crops and also 100 teak trees some 25 years ago. As the trees are grown and it hinders the growth of the crops, the petitioner thought to cut the trees. On 18.10.2010, the petitioner approached the District Collector and sought permission to cut and remove the trees. The revenue authorities had also recorded in their adangal. The raising of the trees is not subject matter of controversy. On account of heavy rain and winds, it became necessary to cut the trees. The revenue authorities came to the premises and threatened the petitioner that distress action will be initiated. The petitioner attempted to explain them that the trees did not fell at the petitioner instance, but only on account of heavy rain and wind. Further removal of trees has

become necessary, since it causes hindrance for the cultivation activity. On explaining about the situation, the revenue officials left the premises.

5. The petitioner application was kept pending by the 1st respondent and the petitioner approached this Court in W.P.No. 25538/2010 seeking for a direction to consider his representation. This Court directed the respondents to consider the representation. As per the directions, the petitioner was called upon to attend the enquiry. When the petitioner explained that on account of the heavy rain and wind the trees fell, the respondent did not heed to his words and had merely recorded as if the petitioner had cut and removed the trees without obtaining permission.

6. The learned Additional Government Pleader appearing for the respondents would submit that the petitioner filed a writ petition No. 25538/10 before this Court to direct the respondents to dispose of the representation made by the petitioner's wife on 18.10.2010 forthwith to enable the petitioner to remove the teakwood for sizing and sale and also for his domestic use. On the writ petition, a Judgment was delivered on 12.11.2010, where the petitioner was permitted to make a fresh representation to the 1st respondent within a period of two weeks from the date of receipt of a copy of this order. If such representation is made, the 1st respondent and the Collector of Villupuram District shall look in to this matter after issuing notice to the concerned parties and pass appropriate order on merits and in accordance with law, within a period of four weeks therefrom.

7. As per the Judgment of this Court, the petitioner made a representation in Collector's grievances day on 29.11.2010 (copy enclosed) and he had also made representation to the Assistant Collector Tindivanam, Tahsildar Gingee, Gingee Forest Ranger officer, District Forest Officer, Villupuram and Revenue Inspector, Melokkur by registered post. Based on the grievance day petition, the petitioner was directed to appear on 10.01.2011 before the District Collector, Villupuram. During the enquiry, the petitioner admitted that he had cut the tree without permission from the authorities.

8. It is seen from the records that based on the Judgment dated 12.11.2010, an enquiry was conducted by the District Collector, Villupuram and he has filed a report on the enquiry stating that the petitioner had cut the trees illegally.

9. Considering the facts and circumstances of the case, this court is of the opinion that the petitioner had cut the trees illegally without the permission of the authorities and therefore, this writ petition is liable to be dismissed.

10. Accordingly, the present writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1. The District Collector,
Villupuram District.
2. The Tashildar, Gingee,
Villupuram.
3. The District Forest Officer,
Villupuram.

+1cc to M/s.V.Raghavachari, Advocate Sr.70990
+1cc to the Government Pleader Sr.72143
+1cc to the Special Government Pleader Sr.71842

W.P.No. 6824 of 2011

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srg 09/12/2019

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