

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.08.2019

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.21070 of 2010 &
M.P.No.1 of 2010

K.S.Arumugam

...Petitioner

Vs.

- 1.The District Collector,
District Collectorate Office,
Salem District.
- 2.The Deputy Director,
Salem Panchayat Union,
Salem District.
- 3.The Blck Development Officer,
Mettur, Salem District.
- 4.The Tahsildar,
Omalur Taluk,
Salem District.
- 5.The Revenue Inspector,
Karuppur Village,
Salem District.
- 6.The Executive Engineer,
Karuppur Panchayat Union,
Salem District.

.. 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 and quash the impugned order passed by the sixth respondent dated 26.07.2010 in Na.Ka.No.92/2010.

For Petitioner : Mr.Kumar and Baskar

For Respondents : Mrs.K.Bhuvaneswari, AGP

O R D E R

The petitioner has filed this writ petition, seeking the following relief:-

"To issue a writ of Certiorari, to call for the records and quash the impugned order passed by the sixth respondent dated 26.07.2010 in Na.Ka.No.92/2010."

2.The case of the petitioner is that the petitioner was in possession and enjoyment of the property in Survey No.62/7A, by way of Settlement Deed vide document No.753 of 1960 dated 19.03.1960 on the file of the Sub Registrar Office, Omalur. After the execution of Settlement Deed, the Revenue Department assigned Patta vide No.28 and Chitta and adangal for the above said property shown as if the petitioner is the owner of the property.

3.While so, the sixth respondent passed the impugned order stating that as if the petitioner and seven others encroached the road portion by planting trees and tried to construct the houses and stored the materials for the purpose of construction and directing the petitioner to remove the encroachment made by him. The learned counsel for the petitioner would contend that the petitioner is the owner of the above said Survey Number by way of settlement deed, however, without due process of law, the impugned order has been passed, as against which, the present writ petition has been filed.

4.The learned Additional Government Pleader appearing for the respondents would submit that the grievance of the petitioner is that without due process of law, the impugned order has been passed. This Court may direct the authorities to measure the property in the presence of the petitioner and if the measurement reveals that the petitioner encroached the road portion, thereafter, eviction will be carried out.

5.Considering the facts and circumstances of the case, without any details, the impugned order was passed against the petitioner and similarly situated persons. Therefore, this Court is inclined to remit the matter back to the sixth respondent and the sixth respondent has to measure the property with the help of qualified Surveyor, Revenue Department in the presence of the petitioner. The petitioner is also directed to produce necessary documents during survey. If the survey and measurement report reveals that the petitioner encroached the road portion, without any notice, the petitioner has been evicted from the objectionable place by the sixth respondent.

6.With the above direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-)

//True Copy//

Sub Assistant Registrar

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To

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Karuppur Village,
Salem District.
- 6.The Executive Engineer,
Karuppur Panchayat Union,
Salem District.

+1cc to Mr.Kumar and Baskar Advocate, S.R.No.67058

+1cc to the Government Pleader, S.R.No.67115

NRL(CO)

CB(12/09/2019)

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