

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 06.11.2019
CORAM:
THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE N.SESHASAYEE
W.P.No.31300 of 2019
and WMP.No.31450 of 2019

N.Periyasamy

.. Petitioner

Vs

1.The District Collector
O/o. District Collectorate
Villupuram District
Villupuram.

2.The Assistant Director (Village Panchayat)
Villupuram.

3.The Tahsildar
Chinna Salem
Villupuram District.

4.The Block Development Officer (Village Panchayat)
Chinna Salem
Villupuram District.

5.The Zonal Deputy Block Development Officer
Panchayat Union
Chinna Salem
Villupuram District.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the fourth respondent made in Na.Ka.No.AA1/2186/2014, dated 23.09.2019 and 22.10.2019 and quash the same as illegal and arbitrary and consequently direct the respondents to consider the petitioner representation dated 18.02.2019, within the time frame fixed by this Court.

For Petitioner
For Respondents

:Mr.K.Vijayaragavan
:Mr.P.S.Shivashanmuga Sundaram
for R1, R2 & R5
Mr.V.Jayaprakash Narayanan
Special Govt. Pleader [for R4]

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.]

The petitioner claims to be an owner of 0.04 cents of land in Government Poromboke Survey No.127/15 of Koogaipur Village, Chinna Salem Taluk, Villupuram District, vide registered sale deed bearing document No.2443 of 2009, registered on the file of Sub Registrar, Chinna Salem and therefore, said to have put up a superstructure for residential as well as commercial purposes.

2. The petitioner has submitted a representation dated 18.02.2019 to the first respondent, stating among other things that adjacent to the land purchased by him, there exists a land in Survey No.127/14 admeasuring to an extent of 0.05 cents and the person who conveyed the property, was also in enjoyment of the same and he has also put up a tiled structure and that the petitioner also continued to be in possession of the said land and has planted chickoo trees and to his surprise, the fourth respondent has issued notices under Sections 6 & 7 of the Land Encroachment Act, 1905 and challenging the legality of the same, came forward to file this writ petition.

3. The learned counsel appearing for the petitioner would submit that in the light of the fact that his predecessor in title as well as the petitioner continue to be in possession of the land in Survey No.127/14 for several years and the said fact ought to have taken into consideration by the respondents, was failed to do so and the further stand is that the land has been classified as "Grama Natham" (Village site).

4. Per contra, Mr.P.S.Shivashanmuga Sundaram, learned counsel accepts notice for respondents 1,2 and 5 and Mr.V.Jayaprakash Narayanan, learned Special Government Pleader accepts notice on behalf of the fourth respondent and has invited the attention of the Court to the sale deed and would submit that the lands said to have been purchased by the petitioner in Survey No.127/14, has not been shown as a house site and even as per the revenue classification, it is shown as Battai Poromboke (Pathway Poromboke) and as such, the stand taken by the petitioner in the writ petition is wholly untenable and prays for dismissal of this writ petition.

5. This Court, has considered the rival submissions and also perused the materials placed before it.

6. The petitioner in his representation dated 18.02.2019, submitted to the respondents would concede that he is in possession of the land Survey No.127/14, claiming to be a Grama Natham, for which, the impugned notices have been issued, which

states that the revenue classification of the said land is shown as "Battai Poromboke" (Pathway Poromboke) and that no materials has been placed before this Court by the petitioner, to prove that the land has been classified as Village Site (Grama Natham).

7. The petitioner being an encroacher, he is entitled to have reasonable opportunity in the form of response submitted by him, for the impugned notices issued by the fourth respondent and beyond that, he cannot claim as a matter of right to encroach upon the public land and remain in possession.

8. In the light of the above facts and circumstances, this Court is of the considered view that the writ petition lacks merits and substance and deserves dismissal. Hence, this writ petition is dismissed and if the petitioner is so advised, he is always at liberty to workout his further remedy, in accordance with law before the competent forum. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-VIII)

// True Copy//

Sub Assistant Registrar

ds

To:

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5.The Zonal Deputy Block Development Officer
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Chinna Salem
Villupuram District.

+1CC to Mr.Vijayaraghavan, Advocate, SR.No.93158.
+1CC to Government Pleader, SR.No.93762.

W.P.No.31300 of 2019

CA (CO)
CSR(11/12/2019)



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