

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.08.2019

CORAM :

THE HON'BLE MRS.VIJAYA K.TAHILRAMANI, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P. No. 34823 of 2018

Nataraj @ Michel

.. Petitioner

v.

- 1.The District Collector,
Tiruvallur District,
Tiruvallur.
- 2.The District Revenue Officer,
Tiruvallur District, Tiruvallur.
- 3.The District Revenue Divisional Officer,
Tiruvallur District, Tiruvallur.
- 4.The Tahsildar,
Poonamallee Taluk, Poonamallee
- 5.The Commissioner,
Poonamallee Municipality, Poonamallee
(Cause Title amended as per order dated 11/3/19 in WMP
No.7329/19 in WP.34823/18)
6. M. Baskar
7. Kuzhalmathi

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue of Writ of Mandamus, directing the respondents 1 to 5 to immediately handover the piece of land to the petitioner in S.No.109/2 Part of Kandasamy Nagar, Poonamallee Village, Poonamallee Taluk, Thiruvallur District, already demolished against the order of this Court dated 28.04.2015 in W.P.No.12873 of 2015 for re-possession to the petitioner for his usage.

For Petitioners : Mr. B.Ramaratham

For Respondents : Mr.S.N.Parthasarathi,
Government Advocate - for R1 to R4

Mr.P. Srinivas - for R5

Mr. M.Kalyana Sundaram, Senior Counsel
for Mr.R.Vasudevan - for R6 & R7

ORDER

(ORDER OF THE COURT WAS MADE BY M.DURAI SWAMY, J.)

The petitioner has filed the above Writ Petition to issue a Writ of Mandamus, directing the respondents 1 to 5 to immediately handover the piece of land to the petitioner in S.No.109/2 Part of Kandasamy Nagar, Poonamallee Village, Poonamallee Taluk, Thiruvallur District, which was demolished against the order of this Court dated 28.04.2015 made in W.P.No.12873 of 2015 for re-possession to the petitioner for his usage.

2. Admittedly, the official respondents took possession of the property by initiating the proceedings under the Tamil Nadu Land Encroachment Act, 1905. The 4th respondent, issued a notice dated 04.08.2015, under section 7 of the Act, calling upon the petitioner to submit his explanation. Thereafter, the 4th respondent issued a notice under section 6 of the Act. Challenging the same, the petitioner preferred an appeal before the 1st respondent under section 10 of the Tamil Nadu Land Encroachment Act, which was also dismissed by the appellate authority. By initiating proceedings under the Tamil Nadu Land Encroachment Act, the 4th respondent also took possession of the property from the petitioner. After the dismissal of the appeal under section 10 of the Act, the petitioner also preferred a revision petition under section 10-A of the Tamil Nadu Land Encroachment Act.

3. Mr.S.N. Parthasarathy, learned Government Advocate, appearing for the respondents 1 to 4 submitted that the revisional authority rejected the revision.

4. From the materials available on record, it is clear that the official respondents have taken possession of the property only after following the due process of law.

5. The learned counsel appearing for the petitioner submitted that the land in dispute is a Natham land and therefore, the same should be re-delivered to the petitioner.

6. However, on a perusal of the materials available on record, it could be seen that the land in dispute is not a Natham land and it is a Battai Poramboke land. Even the Adangal extract produced by the petitioner would only prove that it is a Battai Poramboke.

7. Since the petitioner was evicted from the land in dispute after following the due process of law by invoking the Tamil Nadu Land Encroachment Act, the petitioner is not entitled to re-claim the lands from the official respondents. That apart, as already stated, the appeal preferred by the petitioner was also dismissed by the 1st respondent and the revision filed by him was also rejected. In these circumstances, we are of the view that since the petitioner had encroached the land in Survey No.109/2, which is classified as Battai Poramboke and obstructed the public by encroaching the free usage of the public, action was taken by the official respondents following the procedures contemplated under the Tamil Nadu Land Encroachment Act.

8. In these circumstances, the petitioner is not entitled to seek for re-possession of the land. The Writ Petition is devoid of merits and the same is dismissed. No costs.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

Rj

To

- 1.The District Collector,
Tiruvallur District,
Tiruvallur.
- 2.The District Revenue Officer,
Tiruvallur District, Tiruvallur.
- 3.The District Revenue Divisional Officer,
Tiruvallur District, Tiruvallur.
- 4.The Tahsildar,
Poonamallee Taluk, Poonamallee

5.The Commissioner,
Poonamallee Municipality, Poonamallee.

+1cc to Mr.B.Ramaratham Advocate, S.R.No.69574
+1cc to Mr.P. Srinivas Advocate, S.R.No. 69577
+1cc to Mr.D.Ravi Advocate, S.R.No. 69870
+1cc to the Government Pleader, S.R.No. 70209

VGI (CO)
CB(19/09/2019)

W.P. No. 34823 of 2018



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