



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.05.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

and

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P. (MD) No.12361 of 2019

S.Rasaiah Nadar

.. Petitioner

Vs.

- 1.The Secretary to the Government,
Revenue Department,
St. Fort George, Chennai.
- 2.The District Collector,
Tirunelveli District,
Tirunelveli.
- 3.The Revenue Divisional Officer,
Tirunelveli District, Tirunelveli.
- 4.The Tahsildar,
Office of the Tahsildar,
Palayamkottai, Tirunelveli District,
Tirunelveli.
- 5.The Revenue Inspector,
Munnerpallam, Tirunelveli District.
- 6.The Inspector of Police,
Munnerpallam Police Station,
Tirunelveli District.
- 7.The Church of Mission Society,
Palayamkottai,
Rep. by its Bishop,
Tirunelveli, Diocese Trust Association,
Tirunelveli.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the second respondent to remove the fence made by the seventh respondent in Tirunelveli District, Adaimithipankulam Village, Gramanatham S.No.1248/23, Old No.903/1-PA, totally comprised of 0.06.37 Hectares Ares and S.No.148/3 (Old No.903/1PA), totally comprised of 2.96 Hectares Ares based on the representation dated 18.05.2019.



For Petitioner : Mr.J.Sivaram
For Respondents 1 to 6 : Mr.S.Dhayalan
Government Advocate
For 7th Respondent : Mr.M.Manivel Pandian

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ORDER

(Order of the Court was made by **S.S.SUNDAR, J.**)

This writ petition is filed for issuance of a Writ of Mandamus, directing the second respondent to remove the fence made by the seventh respondent in Tirunelveli District, Adaimithipankulam Village, Gramanatham S.No.1248/23, Old No.903/1-PA, totally comprised of 0.06.37 Hectares Ares and S.No.148/3 (Old No.903/1PA), totally comprised of 2.96 Hectares Ares based on the representation dated 18.05.2019.

2.The petitioner himself has admitted that in the suit filed by the 7th respondent a decree has been granted in favour of the 7th respondent in O.S.No.142 of 2018 (dated 11.02.2019 on the file of the Principal District Munsif Court, Tirunelveli). It is further admitted that the petitioner has preferred an appeal in A.S.No.51 of 2019 on the file of the Principal Subordinate Court, Tirunelveli. In such circumstances, the contention of the petitioner that the 7th respondent has no title or enjoyment over the property cannot be accepted. Though the petitioner submitted that patta that was originally granted in favour of the 7th respondent was cancelled, no record or order of the revenue officials has been produced to show that the patta, which was granted in favour of the 7th respondent has been cancelled.

3.It is also brought to the notice of this Court that the Revenue Divisional Officer by proceedings, dated 19.04.2017, has directed modification of a portion of the land to be registered as Government Poramboke. In the said order, the fact that the property has been classified as Grama Natham (ie., the entire extent of 0.06.37 hectares in S.No.1248/23 in Tharuvai Village) is recorded. The property has been registered in the name of CMS Church and School is not in dispute. The vacant property measuring an extent of 52 square meter which falls outside the building was directed to be shown as Government poramboke land.

4.Though this order is not the subject matter of this Writ Petition, this Court is of the view that the land once classified as Natham cannot be dealt with by the Government and the property never vested with the Government under any statute as this Court has repeatedly held so.



5. In such circumstances, no case is made out in favour of the petitioner with regard to his claim that the property is not the property of 7th respondent. This writ petition is devoid of any merits. This Court cannot conduct an enquiry as to the issue regarding title.

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6. Hence, this Writ Petition is dismissed. However, the appeal said to have been filed by the petitioner in A.S.No.51 of 2019 on the file of Principal Subordinate Court, Tirunelveli can be prosecuted without reference to the order passed in this writ petition. No costs.

Sd/-

Assistant Registrar /
Vacation Officer

/ True Copy /

Sub Assistant Registrar (CS-II)

sj
To

1. The Secretary to the Government,
Revenue Department, St. Fort George, Chennai.
2. The District Collector,
Tirunelveli District, Tirunelveli.
3. The Revenue Divisional Officer,
Tirunelveli District, Tirunelveli.
4. The Tahsildar,
Office of the Tahsildar,
Palayamkottai, Tirunelveli District, Tirunelveli.
5. The Revenue Inspector,
Munnerpallam, Tirunelveli District.
6. The Inspector of Police,
Munnerpallam Police Station, Tirunelveli District.

Copy To:

The Principal Subordinate Judge,
Principal Subordinate Court, Tirunelveli

+1 CC to M/s.SPL GP (SR-66263[F] dated 24/05/2019)

W.P. (MD) No.12361 of 2019

22.05.2019