



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.03.2019

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

W.P. (MD) .No.6124 of 2019
and
W.M.P. (MD) .No.4881 of 2019

Vadivel

... Petitioner

Vs.

1.The District Collector,
District Collectorate,
Theni,
Theni District.

2.The District Revenue Officer,
Collector Office,
Theni,
Theni District.

3.The Block Development Officer,
Village Panchayat,
Andipatty Taluk,
Theni District.

4.The Tahsildar,
Taluk Office,
Andipatty,
Theni District.

5.T.Rathinavel

... Respondents

Prayer:- Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records relating to the proceedings of the third respondent made in Na.Ka.No.2392/2018/P5, dated 03.01.2019 and quash the same as illegal.

For Petitioner
For R1, R2 & R4

: Mr.K.Govindarajan
: Mr.V.R.Shanmuganathan
Special Government Pleader
: Mr.R.Sethuraman
Special Government Pleader

**O R D E R**

(Order of the Court was made by **K. KALYANASUNDARAM, J.**)

Heard Mr.K.Govindarajan, learned counsel for the petitioner, Mr.V.R.Shanmuganathan, learned Special Government Pleader for the respondents 1, 2 and 4, and Mr.R.Sethuraman, learned Special Government Pleader for the third respondent.

2. By consent, the writ petition itself is taken up for final disposal.

3. This writ petition has been filed for issuance of writ of certiorarified Mandamus to quash the order of the third respondent, dated 03.01.2019 made in Na.Ka.No.2392/2018/P5.

4. According to the petitioner, he is the owner of the property measuring an extent of 0.94.50 hectares in Survey No.1652/1A situated in Andipatti Bit II Village in Theni District and the adjacent land in Survey No.1666 was occupied by his forefathers about 70 years ago and apart from his forefathers, other 20 persons are also enjoying the land in Survey No.1666. However, at the instance of the fifth respondent, the second respondent issued an order dated 23.03.2018, for removal of encroachment in Survey Nos.1654 and 1666. The petitioner challenged the order in W.P.(MD).No.10633 of 2018 and the same was disposed of, by directing the authorities to follow the Land Encroachment Act.

5. Mr.K.Govindarajan, learned counsel appearing for the petitioner would state that despite the direction issued by this Court in W.P.(MD).No.10633 of 2018, the third respondent has issued the impugned order, without passing final orders under Section 7 of the Land Encroachment Act.

6. Mr.V.R.Shanmuganathan, learned Special Government pleader would state that the order impugned in the writ petition is an internal communication between the respondents 3 and 4 and it is not an order of eviction under Section 6 of the Land Acquisition Act. It is the submission of the learned Special Government Pleader that if the encroachers fails to vacate the place as per the order of the third respondent, under Section 131(2) of the Tamil Nadu Panchayat Act, the third respondent would refer the matter to the fourth respondent to evict the encroachers, by following the procedure contained in the Land Encroachment Act.

7. In the light of the submissions of the learned counsel on either side, this Court is of the opinion that it would be appropriate to direct the fourth respondent to pass appropriate



orders under Section 7 of the Land Encroachment Act, as per the direction of this Court in W.P.(MD).No.10633 of 2018, dated 09.05.2018, before evicting the encroachers in Survey No.1666.

8. With the above direction and observation, the writ petition is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CRL.SIDE)

// True Copy //

Sub Assistant Registrar(CS)

To

- 1.The District Collector,
District Collectorate,
Theni,
Theni District.
- 2.The District Revenue Officer,
Collector Office,
Theni,
Theni District.
- 3.The Block Development Officer,
Village Panchayat,
Andipatty Taluk,
Theni District.
- 4.The Tahsildar,
Taluk Office,
Andipatty,
Theni District.

+1 CC to M/s.K.GOVINDARAJAN, Advocate (SR-54488[F] dated 15/03/2019)

+1 CC to M/s.SPL GP (SR-54737[F] dated 18/03/2019)

AKV

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