



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI

W.P.(MD) Nos.12216 and 19131 of 2019
and

W.M.P.(MD) Nos.9178 and 9179 of 2019 in W.P.(MD) No.12216 of 2019

W.P. (MD) No.12216 of 2019:

Muruganantham

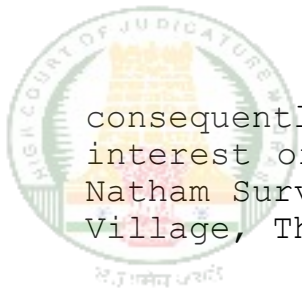
... Petitioner

-vs-

- 1.The District Collector,
Pudukottai.
- 2.The Revenue Divisional Officer,
Pudukottai.
- 3.The Tahsildar,
Thirumayam Taluk,
Pudukottai District.
- 4.The Block Development Officer,
(Village Panchayat),
Thirumayam Panchayat Union,
Pudukottai District.
- 5.The Executive Officer,
Thirumayam Panchayat,
Pudukkottai District.
- 6.The Deputy Superintendent of Police,
Ponnamaravathi,
Pudukkottai District.
- 7.The Inspector of Police,
Thirumayam Police Station,
Pudukkottai District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned notice dated 16.05.2019 in Nos.12216 and 19131 of 2019 by the fourth respondent and quash the same and



consequently to forbear the respondents from claiming any right, interest or title over the Natham site in Old Survey No.588/1, New Natham Survey No.948/4 and 948/3 measuring about 9 Cents, Thirumayam Village, Thirumayam Taluk, Pudukkottai District.

For Petitioner : Mr.J.Barathan
For Respondents : Mr.M.Murugan
Government Advocate

W.P. (MD) No.19131 of 2019:

K.Soundaram ... Petitioner

-vs-

- 1.The District Collector,
Pudukottai District,
Pudukottai.
- 2.TheThasildar,
Thirumayam Taluk,
Pudukottai District.
- 3.The Block Development Officer,
(Village Panchayats),
Thirumayam Panchayat Union,
Pudukottai District.
- 4.The Executive Officer,
Thirumayam Panchayat,
Pudukkottai District.

5.Muruganantham ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents 1 to 4 to remove the encroachment made by the 5th respondent in the Government Poramboke land classified as pathway in Survey No.948/1 and Public Well in Survey No.948/2 and the outer access space of the well situated in Thirumayam Taluk in Utthukeni Street, Thirumayam in Pudukkottai by disposing petitioner's representation dated 17.06.2019.

For Petitioner : Mr.R.Suriya Narayanan
For Respondents 1 to 4 : Mr.M.Murugan
Government Advocate
For 5th Respondent : Mr.J.Bharathan



COMMON ORDER

[Common Order of the Court was made by T.S.SIVAGNANAM, J.]

Heard Mr.J.Bharathan, learned counsel appearing for the petitioner in W.P.(MD) No.12216 of 2019 and 5th respondent in W.P.(MD) No.19131 of 2019, Mr.R.Suriyanarayanan, learned counsel appearing for the petitioner in W.P.(MD) No.19131 of 2019 and Mr.M.Murugan, learned Government Advocate appearing for the respondents in W.P.(MD) No.12216 of 2019 and respondents 1 to 4 in W.P.(MD) No.19131 of 2019.

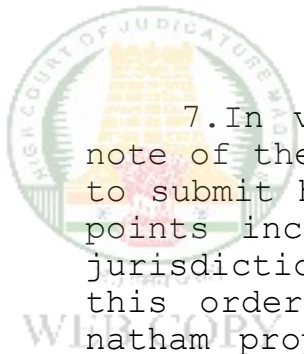
2.By consent on either side, these Writ Petitions are taken up for final hearing.

3.These Writ Petitions are taken up together because the petitioner in W.P.(MD) No.19131 of 2019, Mr.K.Soundaram wants the encroachment to be removed alleging that the 5th respondent in his writ petition is an encroacher and the 5th respondent in W.P.(MD) No.19131 of 2019 is petitioner in W.P.(MD) No.12216 of 2019.

4.As per the instructions given to the learned Government Advocate by the official respondents, the encroachment made on the public well is removed and the area has been fenced.

5.The next aspect is the area, which is alleged to be in the encroachment of Mr.K.Soundaram, the petitioner in W.P.(MD) No.19131 of 2019. The alleged encroacher, Mr.Muruganantham has filed W.P.(MD) No.12216 of 2019, challenging the notice dated 16.05.2019, issued by the Block Development Officer (Village Panchayats), Thirumayam Panchayat Union, stating that the land is a natham land and the Block Development Officer has no jurisdiction to initiate proceedings of eviction. Further, it is stated that the petitioner Muruganantham, his wife and her predecessor in title had been in possession and enjoyment of the property for more than 40 years and his wife has been paying property tax to the Thirumayam Panchyat. Further, it is submitted that notice under the Land Encroachment Act, 1905 or the Tamil Nadu Panchyat Act, 1994 has not been issued.

6.In our considered view, the questions as to whether the property is a natham property and assessed to tax and whether Muruganantham had right and title of over the said property have to be taken note of by the authorities. In fact when the Writ Petition was entertained, the Division Bench recorded in its order dated 22.05.2019 in W.P.(MD) No.12216 of 2019 pointed out that the petitioner has not produced any documents to show his title and now for the first time he contended that the property is a natham property.



7. In view of the above, the authorities are directed to take note of the above facts and the petitioner Muruganantham is directed to submit his reply to the notice dated 16.05.2019, raising all the points including the point that Block Development Officer has no jurisdiction, within one week from the date of receipt of a copy of this order and produce documents to show that the property is a natham property and they have right and title over the same. The authorities shall consider the same after affording an opportunity of personal hearing to the petitioners herein and in the result, if it is found that Muruganantham, the petitioner in W.P. (MD) No.12216 of 2019, has made encroachment, action shall be taken for removal of the encroachment. The above said exercise shall be carried out within 12 weeks from the date of receipt of a copy of this order. Till then, no coercive action be taken.

8. These Writ Petitions are disposed of with the above directions. Consequently, connected Miscellaneous Petitions in W.P. (MD) No.12216 of 2019 are closed. No costs.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar (CS)

sj

To

1. The District Collector,
Pudukottai.
2. The Revenue Divisional Officer,
Pudukottai.
3. The Tahsildar,
Thirumayam Taluk,
Pudukottai District.
4. The Block Development Officer,
(Village Panchayat),
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6.The Deputy Superintendent of Police,
Ponnamaravathi,
Pudukkottai District.

7.The Inspector of Police,
Thirumayam Police Station,
Pudukkottai District.

+1 CC to M/s.GP (SR-8785[I] dated 24/05/2019)

+1 CC to M/s.T.R.JEYAPALAM, Advocate (SR-88280[F] dated
20/09/2019)

+1cc to Mr.R.Suriyanarayanan,Advocate, SR.No.88172

W.P.(MD) Nos.12216 and 19131 of 2019
and W.M.P.(MD) Nos.9178 and 9179 of
2019 in W.P.(MD) No.12216 of 2019
19.09.2019

JMN(04.10.2019) 5P : 11C