



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 24.07.2019
CORAM

THE HONOURABLE MR.JUSTICE **K.RAVICHANDRABAABU**
AND
THE HONOURABLE MR.JUSTICE **SENTHILKUMAR RAMAMOORTHY**

W.P. (MD) No.16296 of 2019

and

W.M.P (MD) Nos.12951 and 12952 of 2019

M.Kalimuthu

.. petitioner

Vs.

1.The Secretary to Government,
Department of Revenue and Disaster Management,
Fort St. George,
Chennai - 09.

2.The District Collector,
Dindigul District,
Dindigul.

3.The District Revenue Officer,
Dindigul District,
Dindigul.

4.The Sub-Collector / Revenue Divisional Officer,
O/o Revenue Divisional Officer,
Dindigul.

5.The Tahsildar,
Dindigul West Taluk,
Dindigul.

..Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records in pursuant to the impugned orders passed by the first respondent in G.O.Ms.No.154 Revenue and Disaster Management department Nila Mudivu Alagu (Ni.Mu.6(2) section dated 07-06-2019 by confirming the order passed by the 2nd Respondent in Na.Ka.No.37294/2017/D2 dated 05-02-2018 and the order passed by the 4th Respondent in Na.Ka.No.6328/2017/Aa3 dated 15-11-2017 and quashes the same and consequently direct the respondents to issue patta in favour of the petitioner's name for occupied house site in S.No.452/1 Koththapulli village, Reddiyur Chathiram post, Dindigul West Taluk, Dindigul District, as per G.O.Ms.No.854 Revenue Department, dated 30.12.2006 and consequential G.O.Ms.No.142, Revenue Department, dated 23-05-2013.



For Petitioner : Mr.V.Muthukamatchi

For Respondents : Mr.M.Karuppasamy
Government Advocate

WEB COPY

ORDER

[Order of the Court was made by **K.RAVICHANDRABAABU, J**]

This writ petition is filed challenging the order of eviction passed by the original authority and confirmed by the appellate and the revisional authority.

2.This matter was taken up earlier on 23.07.2019 for hearing. We heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents at length. We have also perused the impugned orders passed in detail.

3.Upon perusing the impugned orders and considering the submission made by the respective parties, we found that the claim made by the petitioner in this writ petition cannot be sustained, as his only objection that the subject matter property was not at all surveyed is factually incorrect. Perusal of the impugned orders would show that the concerned revenue officials have already made the survey and identified the encroachment made by the writ petitioner. Therefore, there is no point in contending that without making the survey, the petitioner was called upon to vacate. Therefore, we expressed our view on the last occasion that the petitioner is not entitled to succeed in the writ petition based on the facts and circumstances of case. However, as it is stated that the encroached portion is forming part of the residential house of the petitioner, we indicated the learned counsel for the petitioner that the petitioner may be given some time to vacate, provided he files an affidavit of undertaking to that effect. Therefore, for filing of such undertaking to that effect, the learned counsel for the petitioner sought further time. Accordingly, the matter is adjourned and the listed today for further hearing.

4.Today, an affidavit of the petitioner, dated 24.07.2019, is filed, wherein at paragraph 5, it is stated as follows:-

"5.I respectfully submit that, the above writ petition came up for hearing before the Hon'ble Court on 23.07.2019, on that day this Hon'ble Court directed me to vacate the premises within stipulate time and also directed to file affidavit to that effect. In view of the above facts, I am residing in the subject matter land more than 50 years and constructed dwelling house and doing agriculture activities and I having several cattle's in that locality and cattle shed also there. That being the situation, I am unable to vacate the place immediately. For the reasons being that I will give undertaking to vacate my house site in respect of S.No.452/1 situated at Koththapulli Village, Reddiyar Chathiram Post, Dindigul



West Taluk, Dindigul District on or before 31.07.2020 i.e., within 12 months.

For the foregoing reasons that, it is prayed that this Hon'ble Court may be please to record my undertaking affidavit to that effect " I will vacate my house site on or before 31.07.2020 (i.e., within 12 months) in respect of S.No.452/1 situated at Koththapulli Village, Reddiyar Chathiram Post, Dindigul West Taluk, Dindigul District and thus render justice."

5.The learned counsel for the petitioner thus, submitted that the petitioner may be permitted to remove the encroachment and vacate the subject matter property on or before 31.07.2020.

6.Considering the above-stated facts and circumstances and in view of the specific undertaking given by the writ petitioner as stated supra, this writ petition is disposed of by confirming the orders passed by the authorities, which are put to challenge, however, by granting time to the petitioner to vacate on or before 31.07.2020. If the petitioner fails to vacate within the time stipulated supra, it is open to the authorities to take all steps to evict the petitioner apart from filing contempt petition before this Court. The petitioner is also directed not to create any third party's right or interest over the subject matter property at any point of time during his stay till 31.07.2020. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

/TRUE COPY/

Sub Assistant Registrar

To

- 1.The Secretary to Government,
Department of Revenue and Disaster Management,
Fort St. George,
Chennai - 09.
- 2.The District Collector,
Dindigul District,
Dindigul.
- 3.The District Revenue Officer,
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- 4.The Sub-Collector / Revenue Divisional Officer,
O/o Revenue Divisional Officer,
Dindigul.



5.The Tahsildar,
Dindigul West Taluk,
Dindigul.

+1 CC to M/s.V.MUTHUKAMATCHI, Advocate (SR-77457[F] dated
25/07/2019)

+1 CC to M/s.SPL GP (SR-77714[F] dated 25/07/2019)

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JM/09.08.2019/4P/8C