



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.10.2019

CORAM:

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

W.P. (MD) No.17203 of 2019

B.Maheswaran

... Petitioner

-vs-

- 1.The District Collector,
Theni District,
Theni.
- 2.The Revenue Divisional Officer,
Office of the Revenue Division,
Uthamapalayam,
Theni District.
- 3.The Thasildar,
Uthamapalayam Taluk,
Uthamapalayam,
Theni District.
- 4.The Executive Officer,
C.Pudupatti Town Panchayat,
C.Pudupatti,
Uthamapalayam Taluk,
Theni District.
- 5.The Village Administrative Officer,
C.Pudupatti Village,
C.Pudupatti,
Uthamapalayam Taluk,
Theni District.
- 6.R.Vasagar

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the Respondents 1 to 5 to remove the encroachment made by the 6th Respondent in Survey Nos.1144/28 (274/1st Part), 1144/18 & 19, situated in C.Pudupatti Village, Uthamapalayam Taluk, Theni District and consider the petitioner's representation dated 20.05.2019 within the time frame that may be stipulated by this Hon'ble Court.

For Petitioner : Mr.K.Guhan

For Respondents 1 to 3 & 5 : Mr.M.Karuppasamy,
Government Advocate



For 4th Respondent

: Mr.A.K.Baskarapandian
Special Government Pleader

For 6th Respondent

: Mr.R.Suriyanarayanan

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O R D E R

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

Heard Mr.K.Guhan, learned counsel appearing for the petitioner, Mr.M.Karupphasamy, learned Government Advocate appearing for the respondents 1 to 3 and 5, Mr.A.K.Baskarapandian, learned Special Government Pleader appearing for the 4th respondent and Mr.R.Suriyanarayanan, learned counsel appearing for the 6th respondent.

2.By consent on either side, this Writ Appeal itself is taken up for final disposal.

3.The petitioner alleges that the 6th respondent has encroached into the lane, which is the Government property. It appears that earlier the 6th respondent used part of the area for parking the Car. But the petitioner objected to the same. Ultimately, the matter went before the Civil Court in O.S.No.229 of 2016 on the file of the District Munsif Court, Uthamapalayam. In the said suit filed, the 6th respondent obtained a decree for permanent injunction against the Writ Petitioner. Based on the said decree, now the 6th respondent has put up iron fencing covering the area and also put up a steel gate.

4.The 6th respondent's case is that he has been in possession of the property for over 45 years and the earliest document is of the year 1960 vintage. Therefore, it is submitted that they are entitled to patta. In this regard a representation has been given on 26.08.2019.

5.The Tahsildar, Uthamapalayam Taluk is now of the *prima facie* view that there is encroachment. However, the documents, which have now been referred before us have not been placed before the Tahsildar. At this juncture, we issue a direction to the third respondent Tahsildar to enquire into the matter, examine the documents offered by the petitioner as well as 6th respondent, visit the site and pass appropriate orders on merits and in accordance with law. Till such time, status-quo prevailing as on date shall be maintained. The decree obtained by the 6th respondent in the civil proceedings have have no binding effect on the department and the Tahsildar shall ignore the said decree and proceed with the enquiry and pass appropriate orders on merits and in accordance with law within a period of 8 weeks from the date of receipt of a copy of



this order.

6.The Writ Petition stands disposed of with the above direction. No costs.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

Sub Assistant Registrar(CS)

sj

To

- 1.The District Collector,
Theni District,
Theni.
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Theni District.
- 5.The Village Administrative Officer,
C.Pudupatti Village,
C.Pudupatti,
Uthamapalayam Taluk,
Theni District.

+1CC TO MR.R.SURIYANARAYANAN, Advocate Sr. No.93720

+1CC TO MR.K.GUHAN, Advocate Sr. No. 93771

+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 94076

W.P. (MD) No.17203 of 2019

22.10.2019

SCR(CO)

TR(30.10.2019) 3P 9C

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