



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

W.P. (MD)No.14779 of 2014

and

M.P. (MD)No.1 of 2014

and

Cr1.O.P. (MD)No.6 of 2015

and

M.P. (MD)No.1 of 2015

W.P. (MD)No.14779 of 2014:-

Tamil Selvi

... Petitioner

Vs

1.The District Collector,
Madurai District,
Madurai.

2.The District Revenue Officer,
O/o.District Revenue Office,
Madurai District, Madurai.

3.The Tahsildar,
Tahsildar Officer,
Madurai East Taluk,
Madurai District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, forbearing the respondents from anyway dispossessing the petitioner from her land in Survey No.19/4B to an extent of 0.28.5 Hectares situated at Rajagambeeram Village, Madurai East Taluk, Madurai District without following the Acquisition proceedings and consequently provide compensation for the illegal demolition of the petitioner's home.

For Petitioner : Mr.T.Lajapathi Roy

For Respondents : Mr.A.Robinson
Govt. Advocate (Cr1. Side)



Cr1.O.P. (MD)No.6 of 2015:-

P.Tamil Selvi

... Petitioner

Vs

1.The Inspector of Police,
Othakadai Police Station (Crime),
Madurai District.
(Crime No.449 of 2014)

2.J.Mariya Amalojpavam

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records pertaining to the First Information Report in Crime No.449 of 2014, registered under Sections 468 and 471 of I.P.C. on the file of the respondent No.1, dated 20.10.2014 and quash the same.

For Petitioner : Mr.T.Lajapathi Roy

For Respondents : Mr.A.Robinson
Govt. Advocate (Cr1.Side) for R1

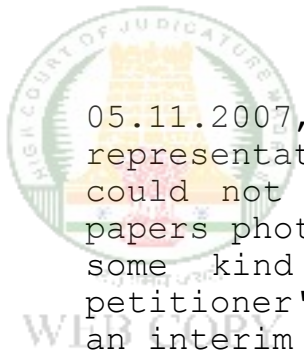
COMMON ORDER

The writ petitioner/Tamil Selvi claims that she has been in possession of the petition mentioned land and that the construction put up by her was illegally demolished by the revenue authorities on 26.08.2014.

2.The petitioner has therefore filed this writ petition for restraining the authorities from throwing her out without resorting to the land acquisition proceedings. She also wants payment of compensation for the illegal demolition of her home.

3.From the materials on record, it is evident that the land in question has been in the possession of the petitioner herein. She has enclosed certain receipts that date back even to the year 1982. The local body has also passed a resolution on 06.08.2004 in her favour. The writ petitioner filed W.P.(MD).No.9081 of 2007, for consideration of her request for issuance of patta.

4.I am therefore of the view that without due process of law, the petitioner could not have been dispossessed. In the counter affidavit filed by the respondents, a stand has been taken that even if notice under Section 7 of the Land Encroachment Act has not been issued, that will still not vitiate the proceedings. I am unable to subscribe to the aforesaid contentions taken by the respondents. This is a case in which, this Court had given a direction on



05.11.2007, directing the authorities to consider the petitioner's representation for issuance of patta. Therefore, the petitioner could not have been summarily thrown out. In the typed set of papers photographs have been enclosed, which indicate that there was some kind of a construction in the land in question. The petitioner's counsel would point out that at the time of admission, an interim order of status-quo was issued.

5. Therefore, I am of the view that the respondents will have to necessarily follow due process of law in the matter. However, the petitioner is not justified in making a claim that acquisition proceedings must be followed. It is not the case of the petitioner that she had purchased the land or that the property in question is ancestral. Admittedly, the character of the land is poramboke. The petitioner's claim is yet to be fully resolved. In this background, the Government cannot be directed to acquire its own land.

6. The petitioner demands payment of compensation for the illegal demolition. These are matters that would require investigation of certain factual aspects. Therefore, this writ petition is disposed of with a direction that the respondents will have to adopt due process of law in the matter.

7. With this direction, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

8. The petitioner has enclosed a copy of the document dated 23.12.2010, which purports to be the patta issued in favour of the petitioner herein. According to the respondents, this is a forged document. The petitioner claims that it is not a forged document and that it is a genuine one. Whether a document is forged or not, is something to be gone into only in the investigation. In this case, Crime No.449 of 2014 has been registered. It is for the Police to conduct proper investigation and take a final call in the matter. At this stage, this Court will not be justified in stifling the prosecution at the very inception. The petitioner is a woman and the materials on record indicate that she has been in physical possession for quite some time. Therefore, this Court would restrain the respondent from arresting the petitioner during the course of investigation. This relief is granted since the petitioner's counsel unable to make a statement whether the petitioner had obtained anticipatory bail. With this observation, the criminal original petition is disposed of. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(AD-I)

/TRUE COPY/



- 1.The District Collector,
Madurai District, Madurai.
- 2.The District Revenue Officer,
O/o.District Revenue Office,
Madurai District, Madurai.
- 3.The Tahsildar,
Tahsildar Officer,
Madurai East Taluk,
Madurai District.
- 4.The Inspector of Police,
Othakadai Police Station (Crime),
Madurai District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+2 CC to M/s.T.LAJAPATHI ROY, Advocate SR-88027 & 88135

W.P. (MD)No. 14779 of 2014
and
Cr1.O.P. (MD)No.6 of 2015
19.09.2019

JM/10.10.2019/4P/8C