



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.09.2019

CORAM:

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE Mrs.JUSTICE R.THARANI

W.P.(MD).No.20490 of 2019

and

W.P.(MD).No.20494 of 2019

and

WMP (MD) Nos.17133 & 17136 of 2019

1.A.Thirumurugasamy	.. Petitioner in WP.20490/2019
2.P.Velusamy	.. Petitioner in WP.20494/2019

Vs.

1.The District Collector,
Dindigul District,
Dindigul.

2.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Palani Revenue Division, Palani,
Dindigul District.

3.The Tahsildar,
Oddanchathiram Taluk Office,
Oddanchathiram,
Dindigul District.

4.The Block Development Officer,
Oddanchathiram Panchayat Union,
Oddanchathiram,
Dindigul District.

5.P. Ganesan	... Respondents in both Wps.
6.	

COMMON PRAYER: This petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to forbear the respondents 1 to 3 from in anyway dispossessing and evicting the petitioners from their perpetual possession of the property measuring about 2.31.0 hectares situated in Survey No.36/1 of Vadakadu Village, Oddanchathiram Taluk, Dindigul District without considering their representations, dated 27.07.2019.



For Petitioners : Mr.G.Thalaimutharasu
(In both Wps.) For Mr.C.Gangai Amaran

For Respondents : Mr.A.K.Baskarapandian
(R1 to R3) Spl.Govt.Pleader
(In both Wps.)

For Respondent-4 : Mr.A.Thiyagarajan
(In both Wps.) Govt.Advocate

COMMON ORDER

(Order of this Court was made by **T.S.SIVAGNANAM, J**)

We have heard Mr.G.Thalaimutharasu, learned Counsel for Mr.C.Gangai Amaran, learned counsel for the petitioners on record, Mr.A.K.Baskarapandian, learned Special Government Pleader for the respondents 1 to 3 and Mr.A.Thiyagarajan, learned Government Advocate for the 4th respondent.

2. By consent of either side, these Writ Petitions are taken up for final disposal.

3. In the light of the order we propose to pass, Notice to the 5th respondent is dispensed with.

4. The petitioners case is that the land, which is in occupation of the petitioners, has been with their families for over 80 years and a small thatched shed has been put up and in the remaining extent, agricultural activities were carried out by the petitioners' father and as of now, by the petitioners. It is submitted that the 5th respondent has some animosity against the petitioners and their respective fathers and he raised an objection stating that the petitioners' fathers have encroached the Government land and submitted a petition before the Revenue Authorities. It appears that based on such complaint, the District Revenue Officer, has given a telephonic information on 19.12.2003, to the Tahsildar, Oddanchathiram, to look into the matter.

5. The Tahsildar, has given a report to the District Revenue Officer, Palani, vide proceedings, dated 24.12.2003, stating that there is encroachment by the petitioners father and agricultural activities are being done and a B-memo has been issued to the petitioners father. Further, the proceeding states that there is a dispute between the petitioners father and the 5th respondent, which appears to be the basis of the complaint.



6. It is submitted by the learned counsel for the petitioners that ever since from 2003, there has been no interference with the petitioners enjoyment of the property and they have been cultivating.

7. The petitioners are now before this Court, seeking for a direction against the official respondents not to dispossess them from the land in question. The apprehension of the petitioners is that the official respondents would proceed to summarily evict the petitioners because, the 5th respondent has filed a Writ Petition before this Court in W.P(MD)No.4886 of 2019, without impleading the petitioners and the said writ petition was disposed of on 01.03.2019, based on which, the petitioners apprehend that hasty action will be taken.

8. On going through the order dated 01.03.2019 in W.P.(MD) No.4886 of 2019, we find that no positive direction was issued in the Writ Petition, except directing the respondents therein to consider the representation of the 5th respondent, who was the writ petitioner in the said writ petition.

9. The fact that notices have been issued to the petitioners for survey of the land itself shows that no hasty action is initiated against the petitioners to summarily dispossess them. In fact, the petitioners have also given their objections / reply, pursuant to the survey notice and sent the same by registered post on 27.07.2019, received in the office of the respondent, on 29.07.2019, as per the postal acknowledgement.

10. In the light of the above facts, we are of the view that the first step that the 3rd respondent to do is, to conduct a proper survey, after notice to the petitioners and other persons, who are alleged to be the encroachers, and after conducting a proper survey then it is open to the 3rd respondent to consider the representation of the 5th respondent and proceed in accordance with law.

11. With the above observation, the Writ Petitions stand disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Ad-I)

// True Copy //

Sub Assistant Registrar(CS)



To

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Dindigul.
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Oddanchathiram Panchayat Union,
Oddanchathiram,
Dindigul District.

+1 CC to GP SR-89850.

+2 CC to M/s.C.GANGAI AMARAN, Advocate SR-89768 & 89769

**W.P. (MD) .No.20490 of 2019
and
W.P. (MD) .No.20494 of 2019
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