



WEB COPY

W.P(MD)No.21546 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

AND

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P(MD)No.21546 of 2019

and

W.M.P(MD)No.18219 of 2019

P.Thavasu

... Petitioner

Vs.

1.The District Collector,
Sivagangai District,
Sivagangai.

2.The District Revenue Officer,
Sivagangai District.

3.The Revenue Divisional Officer,
Devakottai,
Sivagangai District.

4.The Tahsildar,
Tiruppathur Taluk,
Sivagangai District.

5.P.Kalyanai

6.A.Rajendran

7.R.Rasu

8.A.Sasikumar

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus to direct the respondents 1 to 4 to initiate a legal action as against respondents 5 to 8 by considering his representation dated 07.10.2019 and to remove the compound wall being constructed in the Survey No.453/29 of Chandiranpatti, South Ilayathankudi Group, Thiruppathur Taluk, Sivagangai District within a time limit that may be fixed by this Court.

For Petitioner

: Mr.C.M.Arumugam

For Respondents

: Mr.N.Shanmuga Selvam
Additional Government Pleader
for R.1 to R.4



R.5 to R.8 - Dispensed with.

* * * * *

ORDER

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(Order of the Court was made by **S.S.SUNDAR,J.**)

This writ petition, styled as a Public Interest Litigation, has been filed seeking a writ of Mandamus to direct the respondents 1 to 4 to initiate a legal action as against respondents 5 to 8 by considering his representation dated 07.10.2019 and to remove the compound wall being constructed in the Survey No.453/29 of Chandiranpatti, South Ilayathankudi Group, Thiruppathur Taluk, Sivagangai District within a time limit that may be fixed by this Court.

2. Heard Mr.C.M.Arumugam, learned Counsel for the petitioner and Mr.N.Shanmuga Selvam, learned Additional Government Pleader accepting notice on behalf of the respondents 1 to 4. In the light of the order that we propose to pass in this writ petition, notice to the respondents 5 to 8, is dispensed with.

3. With the consent of both the parties, this writ petition is taken up for final disposal.

4. The case of the petitioner is that the property in Survey No.453/29 in Chandiranpatti is classified as Natham. It is also shown in the revenue records as Government Natham. Since the property in Survey No.453/29 is used by the petitioner and other villagers as pathway to have access to the agricultural fields owned by the villagers and to celebrate Pongal and other festivals, it is contended by the petitioner that the attempt made by the respondents 5 to 8 to construct a compound wall surrounding the temple, is illegal. The writ petition is, therefore, filed by the petitioner to direct the respondents 1 to 4 to remove the encroachment made by the respondents 5 to 8 by putting a compound wall around the temple.

5. The petitioner himself admits that the property in Survey No.453/29 is a Grama Natham or Natham. It is the specific case of the petitioner that the property belongs to the entire village and it is being used by them for common purposes. In these circumstances, the official respondents have no right or jurisdiction to initiate action against the respondents 5 to 8 under the Land Encroachment Act by treating the land as Government poramboke. It is settled that the property which is classified as Grama Natham or Natham does not vest with the Government under any enactment. Under these circumstances, it is not possible for this Court to give a direction to the official respondents to initiate action for removal of construction by treating the disputed land as



the property of Government.

6. Hence, this Court is of the view that the petitioner can approach the civil Court to establish their right, title and interest by taking appropriate plea to redress the grievance of the petitioner and others to remove any encroachment after declaring the character of the land in question.

7. Granting liberty to the petitioner to approach the civil Court, this Writ Petition stands disposed of. No costs. Consequently, the connected Miscellaneous Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

Sub Assistant Registrar(CS)

SSL

To

- 1.The District Collector,
Sivagangai District,
Sivagangai.
- 2.The District Revenue Officer,
Sivagangai District.
- 3.The Revenue Divisional Officer,
Devakottai,
Sivagangai District.
- 4.The Tahsildar,
Tiruppathur Taluk,
Sivagangai District.

+1 CC to M/s.SPL GP (SR-91710[F] dated 11/10/2019)

+1 CC to M/s.C.M.ARUMUGAM, Advocate (SR-91682[F] dated 10/10/2019)

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and

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10.10.2019