



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 19.08.2019

CORAM

WEB COPY

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

Writ Petition(MD)No.17289 of 2018
and
W.M.P(MD)No.15228 of 2018

Padrakali

.. petitioner

Vs.

- 1.The District Collector,
Virudhunagar District,
Virudunagar.
- 2.The Revenue Divisional Officer,
Aruppukottai, Virudhunagar District.
- 3.The Tahsildar,
Virudhunagar Taluk,
Virudhunagar District.
- 4.The Block Development Officer,
Virudhunagar Panchayat Union,
Virudunagar District.
- 5.The Zonal Deputy Tahsildar,
Virudhunagar Taluk,
Virudhunagar District.

6.B.Pandi

..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 of the third respondent in his proceedings in Na.Ka.No.A5/745/2018 dated 05.07.2018 and quash the same as illegal, arbitrary, violation of law, Principles of Natural Justice and further direct the 4th respondent to make necessary corrections in the patta issued on 21.06.2016.

For Petitioner : Mr.M.Jothibasu
For Respondents : Mr.M.Karuppasamy
Govt. Advocate (for R1 to R5)
Mr.I.Suthakaran (for R6)



O R D E R

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

This writ petition is filed challenging the order of the third respondent, dated 05.07.2018, wherein and whereby, the writ petitioner was called upon to remove the encroachment made at Survey No.308, Sennelkudi Village, Virudhunagar District.

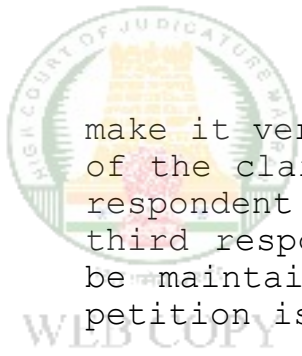
2.Heard the learned counsel for the petitioner, the learned Government Advocate appearing for the respondents 1 to 5 and the learned counsel appearing for the 6th respondent.

3.It is seen that based on a complaint given by the 6th respondent that the writ petitioner has made encroachment in the subject property, the present impugned proceedings was issued by the 3rd respondent against the writ petitioner.

4.It is contended on behalf of the writ petitioner that apart from other grounds on merits, the impugned order cannot be sustained solely on the ground of violation of principles of natural justice, since the petitioner was not put on notice before issuing the eviction order.

5.Perusal of the impugned order does not disclose anywhere as to whether the petitioner was put on notice and any opportunity was given to her to put forth her case. On the other hand, the third respondent seems to have passed the impugned order based on the survey report filed by the concerned Revenue Officials. Needless to state that before passing such an order of eviction, the third respondent ought to have given notice to the petitioner and sought for her explanation/objection. In this case, it has not been done so. Therefore, without going into the other merits of the matter, more particularly, in respect of the claim made by the petitioner over the subject matter land, we are inclined to interfere with the impugned order only on the ground of violation of principles of natural justice. However, we would like to remit the matter to the third respondent to pass fresh orders on merits and in accordance with law, after hearing all the parties concerned.

6.Accordingly, this writ petition is disposed of by directing the parties to treat the impugned order as the notice issued on the petitioner. Consequently, the writ petitioner shall file her objection to the third respondent, within a period of two weeks from the date of receipt of a copy of this order. On receipt of such objection, the third respondent shall conduct an enquiry and after hearing all the interested parties including the petitioner, the sixth respondent, shall pass a speaking order on merits and in accordance with law, within a period of four weeks thereafter. We



make it very clear that we are not expressing any view on the merits of the claim made by the respective parties, as it is for the third respondent to consider and decide. Till an order is passed by the third respondent as stated supra, the status quo as on today shall be maintained. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar

To

- 1.The District Collector,
Virudhunagar District,
Virudunagar.
- 2.The Revenue Divisional Officer,
Aruppukottai,
Virudhunagar District.
- 3.The Tahsildar,
Virudhunagar Taluk,
Virudhunagar District.
- 4.The Block Development Officer,
Virudhunagar Panchayat Union,
Virudunagar District.
- 5.The Zonal Deputy Tahsildar,
Virudhunagar Taluk,
Virudhunagar District.

+1 CC to M/s.I.SUTHAKARAN, Advocate (SR-82245[F] dated 19/08/2019)

+1 CC to M/s.SPL GP (SR-82465[F] dated 20/08/2019)

Writ Petition(MD)No.17289 of 2018

and

W.M.P(MD)No.15228 of 2018

19.08.2019

skn

MS/09.09.2019/3P.8C