



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.10.2019

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE R.THARANI

W.P (MD)No.22170 of 2019

and

W.M.P. (MD)No.18963 of 2019

S.Guruvan

... Petitioner

Vs.

1. The District Collector,
Office of the District Collector,
Madurai.

2. The Tahsildar,
Thirupparamkundram Taluk Office,
Thirupparamkundram,
Madurai District.

3. The Block Development Officer,
(Village Panchayat),
Thirupparamkundram Panchayat Union,
Thirupparamkundram,
Madurai District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the third respondent in Na.Ka.No.1608/2019/Thi3 dated 09.10.2019 quash the same and consequently direct the respondents herein not to interfere with the possession and enjoyment of the petitioner in his patta land in Survey No.4/37 vide patta No.403, Othai Alangulam Village, Madurai South, Madurai.

For Petitioner : Mr.P.Mahendran

For R1 and R2 : Mr.A.K.Baskara Pandian
Special Government Pleader

For R3 : Mr.K.Mari Chellaiah Prabhu
Additional Government Pleader



ORDER

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

Heard Mr.P..Mahendran, learned counsel for the petitioner, Mr.A.K.Baskara Pandian, learned Special Government Pleader for the first and second respondents and Mr.K.Mari Chellaiah Prabhu, learned Additional Government Pleader for the third respondent. By consent on either side, this writ petition is taken up for final disposal.

2. The writ petitioner challenges the order passed by the Block Development Officer, dated 09.10.2019. The impugned order came to be passed after a direction was issued by this Court directing the petitioner to give objection to an earlier notice, dated 16.08.2019. The petitioner had given his objections to the said notice, on 25.09.2019 and said to have enclosed all documents, more particularly the joint patta bearing in Patta No.403 issued in favour of the petitioner's father and five others in respect of the property in Survey No.4/37, Othai Alangulam Village, Madurai South, Madurai.

3. The learned counsel for the petitioner pointed that one V.Iyyanar, has filed Public Interest Litigation before this Court in W.P.(MD)No.20982 of 2019 for removal of encroachment in Survey Nos.3, 4/34, 5, 6 and 7, which are classified as 'Government road' and the said writ petition was disposed of by an order dated 30.09.2019 by issuing directions to the authorities including the third respondent.

4. On a reading of the impugned order, we find that the Block Development Officer has not considered as to what is the effect of the patta granted in favour of the petitioner's father and five others in respect of the land in Survey No.4/37.

5. The learned counsel appearing for the third respondent, submitted that it is not the case of the third respondent that the entire extent of the Government property has been encroached but a portion of the property has been encroached.

6. If it is so, the third respondent should demarcate the encroached area and if there is patta land, then it goes without saying that the petitioner is entitled to enjoy the patta land. Therefore, we find that more detailed enquiry is required to be conducted in this matter and the Block Development Officer, if necessary, shall take the assistance of the Revenue Officials.

7. Accordingly, we direct the third respondent to inspect the property and clearly demarcate the area, where there is an encroachment in the Government land. If the petitioner and any



other third party is found to be encroachers, then they shall be given ten days time to remove the encroachment, failing which, the third respondent shall remove the encroachment departmentally. The third respondent shall also consider the effect of the joint patta granted in favour of the petitioner's father and five others and also taken note of the directions issued in W.P.(MD)No.20982 of 2019. The above direction be complied with within a period of ten days from the date of receipt of a copy of this order.

8. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The District Collector,
Office of the District Collector,
Madurai.
2. The Tahsildar,
Thirupparamkundram Taluk Office,
Thirupparamkundram,
Madurai District.
3. The Block Development Officer,
(Village Panchayat),
Thirupparamkundram Panchayat Union,
Thirupparamkundram,
Madurai District.

+1 CC to Mr.P.MAHENDRAN, Advocate (SR-93308[F] dated 21/10/2019)

W.P (MD)No.22170 of 2019
21.10.2019

ta

MK (06.11.2019) 3P 5C