



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **14.10.2019**

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P. (PD) (MD)No.13440 of 2016

and

W.M.P. (MD)Nos.10059 and 11604 of 2016

J.Renuka

...Petitioner

Vs.

1.The District Revenue Officer,
Sivagangai Collectorate Office,
Sivagangai District, Sivagangai.

2.The Revenue Divisional Officer,
Revenue Divisional Office,
Devakottai,
Sivagangai District.

3.The Tahsildar,
Thiruppattur Taluk,
Sivagangai District.

4.Thiagarajan

..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 impugned proceedings dated 09.06.2016 of the third respondent and also consequent proceedings of the third respondent dated 19.07.2016 and quash the same and consequently direct the respondents not to interfere with the petitioner's possession and enjoyment of her property in Natham Surveny No.255/38 to an extent of 0.00.35 cents situated at Thirukostiyur Village, Thirupattur Taluk, Sivagangai District.

For Petitioner : Mr.D.R.Murugesan

For R1 to R3 : Mr.S.Alagadevan
Special Government Pleader

For R4 : Mr.N.Tamil Mani



ORDER

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

Heard Mr.D.R.Murugesan, learned counsel for the petitioner, Mr.S.Alagadevan, learned Special Government Pleader for the respondents 1 to 3 and Mr.N.Tamil Mani, learned counsel for the fourth respondent.

2. The petitioner challenges the notice issued under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 (in short 'Act'). The ground of challenge is that though objections were given by the petitioner to the notice under Section 7 of the Act, the objections were not considered and the impugned notice has been issued.

3. The learned counsel for the petitioner submitted that the land in question was originally classified as Natham and patta was granted in favour of the petitioner's father-in-law and subsequently the same was cancelled and now the respondents allege that the petitioner has encroached the Government land. The petitioner has produced photographs of the land in question and submits that it is a meagre extent of land and there is no hindrance to any third party and the entire proceedings has been initiated at the behest of the fourth respondent, who is the petitioner's neighbour, having personal animosity against the petitioner.

4. In our considered view, if the land in question as on date has been classified as Government land, no person is vested with the right to claim that he is entitled to be in occupation of the same, unless and until patta is granted. Thus, in the absence of any patta, the person in occupation of a Government land, whatever may be the classification of the land, has to be termed only as an encroacher. Thus, as on date, the petitioner has to be definitely termed as encroacher. Nevertheless, we do not wish to record any final finding because, enquiry requires to take into the matter as the petitioner has filed objections to the notice issued under Section 7 of the Act.

5. For the above reasons, we dispose of this writ petition by directing the petitioner to treat the impugned notice as show cause notice and submit fresh objections along with documents within a period of three weeks from the date of receipt of a copy of this order. On receipt of the objections, the Tahsildar / third respondent shall conduct an enquiry, issue notice to the writ petitioner as well as the fourth respondent, depute one of his officers to conduct spot inspection and after considering the



explanation and views of the fourth respondent, pass a speaking order on merits and in accordance with law within a period of six weeks from the date on which, the inspection is completed. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)

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To

1.The District Revenue Officer,
Sivagangai Collectorate Office,
Sivagangai District, Sivagangai.

2.The Revenue Divisional Officer,
Revenue Divisional Office,
Devakottai, Sivagangai District.

3.The Tahsildar,
Thiruppattur Taluk,
Sivagangai District.

+1 CC to M/s.N. TAMILMANI, Advocate (SR-91842[F] dated 15/10/2019)

+1 CC to M/s.D.R.MURUGESAN, Advocate (SR-91965[F] dated 15/10/2019)

ORDER MADE IN
W.P. (MD) No.13440 of 2016
14.10.2019

KM/(30.10.2019) 3P 6C