



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.12.2019

CORAM

THE HONOURABLE MR.JUSTICE M.DURAISWAMY

AND

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

W.P(MD)No.23754 of 2019

and

W.M.P(MD)Nos.20337 and 20338 of 2019

Kanickai Mary

... Petitioner

Vs.

1.The Commissioner of Land Administration,
Chennai.

2.The District Revenue Officer,
Ramanathapuram.

3.The Revenue Divisional Officer,
Ramanathapuram.

4.The Tahsildar,
Thiruvadanai Taluk,
Ramanathapuram District.

5.Arulsamy

6.Sesurasaiah

7.Einstein Thiraviyam

8.Jaya

9.Francis Elango @ Elango

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned enquiry notice dated 05.11.2019 in Na.Ka.B6/43713/2019 issued by the second respondent and quash the same and consequentially, forbear the respondents 1 to 4 from passing any orders on the petition dated 25.10.2019 submitted by the ninth respondent to the first respondent which had been forwarded to the second respondent.

For Petitioner : Mr.J.Barathan

For Respondents : Mr.J.Gunaseelan Muthiah



Mr.C.Vakeeswaran for R.5 to R.9

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ORDER

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[Order of the Court was made by **M. DURAISWAMY, J.**]

The petitioner has filed the above writ petition to issue a writ of Certiorarified Mandamus to call for the records relating to the impugned enquiry notice dated 05.11.2019 in Na.Ka.B6/43713/2019 issued by the second respondent and quash the same and consequentially, forbear the respondents 1 to 4 from passing any orders on the petition dated 25.10.2019 submitted by the ninth respondent to the first respondent which had been forwarded to the second respondent.

2. It is the case of the petitioner that she is in absolute possession and enjoyment of the land comprised in S.Nos.365/39 and 365/40 measuring an extent of 6 mts., in width and 24 mts., in breadth. The ninth respondent gave a representation dated 25.10.2019 to the first respondent to survey the land in S.No.365/43 (wrongly mentioned as S.No.356/43) and to lay the boundary stones.

3. On a representation being forwarded to the second respondent, he sent the impugned notice to the petitioner as well as the ninth respondent calling upon them to appear for enquiry on 06.11.2019 with regard to the alleged encroachment.

4. The learned Counsel for the ninth respondent submitted that the ninth respondent has given a representation only for surveying and laying the boundary stones in the land in S.No.365/43 and not for removing the encroachment. Further, the learned Counsel submitted that the second respondent had wrongly issued the impugned notice to the petitioner as well as to the ninth respondent as though there was encroachment in the land in question. The learned Counsel further submitted that the dispute is only with regard to the land in S.No.365/43 and not in respect of S.No.356/43.

5. The learned Counsel for the petitioner also agreed that the land in question is only in S.No.365/43.

6. When the ninth respondent has not given any representation for removing the encroachment, the issuance of notice based on the representation dated 25.10.2019 of the ninth respondent for removing the encroachment is unwarranted. That apart, the learned Counsel on either side submitted that the land in S.No.365/43 is a private land and in case of encroachment made by either of the parties, they would work out their remedy before the competent civil Court.

7. In these circumstances, the impugned notice dated 25.10.2019 issued by the second respondent is set aside and this



writ petition is allowed. No costs. Consequently, the connected writ miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS III)

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// True Copy //

Sub Assistant Registrar(CS)

rsb

To

1.The Commissioner of Land Administration,
Chennai.

2.The District Revenue Officer,
Ramanathapuram.

3.The Revenue Divisional Officer,
Ramanathapuram.

4.The Tahsildar,
Thiruvadanai Taluk,
Ramanathapuram District.

1 CC to M/s.C.VAKEESHWARAN, Advocate (SR-104093[F] dated 09/12/2019)

+1 CC to M/s.SPL GP (SR-104178[F] dated 10/12/2019)

+1 CC to M/s.M/S.T.R.JEYAPALAM, Advocate (SR-104303[F] dated 10/12/2019)

W.P (MD) No.23754 of 2019

and

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KK/SAR/20.12.2019/3P-8C/