



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.11.2019

CORAM:

**THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE Mrs.JUSTICE R.THARANI**

**W.P. (MD) .No.25221 of 2019
and
WMP (MD) .No.21805 of 2019**

Chellaiah ... Petitioner
Vs.

- 1.The District Collector,
Pudukottai District,
Pudukottai.
- 2.The Revenue Divisional Officer,
Pudukottai,
Pudukottai District.
- 3.The Tahsildar,
Karambakudi Taluk,
Karambakudi,
Pudukottai District.
- 4.Thiruchelvam,
- 5.Muthukumar
- 6.Rajagopal
- 7.Kulanthaiyan

... Respondents

PRAYER: This petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the 3rd respondent and his men, agents or servants to demolish the petitioner's house, situated in Survey No.139/20 in Patta No.77 at Ilaikadi Viduthi, Karambakudi Taluk, Pudukottai District and consequently, direct the respondents 1 and 2 to consider the representation, dated 14.11.2019.

For Petitioner : Mr.P.Arun Jayatram

For Respondent : Mr.M.Murugan
(R1 & R3) Govt.Advocate



O R D E R

(Order of this Court was made by **T.S.SIVAGNANAM, J**)

WEB COPY

Heard Mr.P.Arun Jayatram, the learned counsel appearing for the petitioner and Mr.M.Murugan, the learned Government Advocate for respondents 1 to 3.

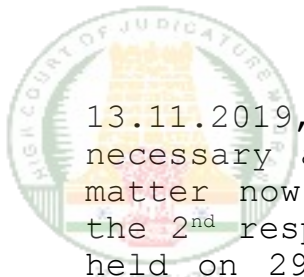
2. The petitioner seeks for a direction to forbear the 3rd respondent / Tahsildar, Karambakudi Taluk, Pudukottai District from in any manner taking any steps to interfere with the petitioner's house, situated in Sy.No.139/20, bearing patta No.77 at Ilaikadi Viduthi, Karambakudi Taluk, Pudukottai District and consequently, direct the respondents 1 and 2 to consider the representation, dated 14.11.2019.

3. The petitioner's case is that earlier there was interference at the behest of the President of the Village Panchayat and he filed a Suit in O.S.No.353 of 2004, on the file of the Principal District Munsif Court, Pudukkottai, for a decree of permanent injunction. In the said suit, the president of the Village Panchayat and the Block Development Officer were the defendants. The suit has been decreed, by Judgment and Decree, dated 03.04.2019.

4. The learned counsel for the petitioner has drawn the attention of this Court to the Judgment where the evidence of D.W.1, Panchayat President has been set out wherein, he has accepted that the house of the petitioner is situated in the suit property. The defendants in the suit filed an appeal before the Sub Court, Pudukkottai, in A.S.No.115 of 2006, which was dismissed for default, by order dated 20.07.2007. Thus, it is submitted the decree of permanent injunction has attained the finality.

5. It is alleged by the petitioner that at the behest of the private respondents namely, 4 to 7, the Tahsildar is threatening to demolish the petitioner's house and in fact, he has also compelled the petitioner's son to agree that the petitioner's house can be demolished. Therefore, the petitioner seeks for adequate protection for his property and his family.

6. The learned Government Advocate, who has accepted notice for respondents 1 to 3 submitted that there is no threat of demolition of the petitioner's house, situated in Survey.No.139/20 for which, patta has been granted in favour of the petitioner. It is further submitted that Survey.No.139/32 is classified as a cart track in the revenue records and there was a dispute raised by the local people to take dead body for cremation and since dispute



13.11.2019, but no amicable solution was arrived at, however, necessary arrangements were made to cremate the dead body and the matter now has been placed before the Revenue Divisional Officer, the 2nd respondent, for a Peace Committee Meeting, scheduled to be held on 29.11.2019. If the petitioner has been granted patta in respect of the land in Sy.No.139/20, no high handed action can be initiated by the authorities to interfere with the possession, more so, when he has obtained a decree from the civil Court. However, if there is any encroachment in the cart track, then proceedings can be initiated, but that cannot be done without issuing notice and without affording an opportunity of hearing to the petitioner.

7. Therefore, we dispose of this writ petition by forbearing the 3rd respondent or his employees or agents from in any manner interfering with the petitioner's house property situated in Survey No.139/20. We leave open the other issues and it is for the Revenue Divisional Officer to take note of the facts and act accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Writs)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The District Collector,
Pudukottai District, Pudukottai.

2.The Revenue Divisional Officer,
Pudukottai, Pudukottai District.

3.The Tahsildar,
Karambakudi Taluk,
Karambakudi, Pudukottai District.

+1 CC to M/s.P.ARUN JAYATRAM, Advocate (SR-101848[F] 27/11/2019)
+1 CC to M/s.Special Govt. Pleader (SR-102790[F] dated 29/11/2019)

W.P. (MD) .No.25221 of 2019
27.11.2019

SDS (17.12.2019) 3P 6C