

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 02.12.2020

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

WP.No.16803 of 2020
and W.M.P.No.20823 of 2020

N.Subramani

... Petitioner

Versus

1.The State of Tamil Nadu
Rural Development and
Panchayat Raj Department,
rep.by its Secretary,
Fort St.George, Chennai 600 009.

2.The District Collector,
Vellore District, Vellore.

3.The Block Development Officer,
Anaikattu Panchayat Union,
Vellore District.

4.The Tahsildar,

Vellore District.

.. Respondents

Prayer:- Writ petition has been filed under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus Calling for the records of the thrid respondent in NA.KA.A8/986/2020 dated 21.9.2020, quash the same and direct the respondents to recognize the Petitioner's possession and enjoyment of the land measuring 1.96 Acres in S. NO 88 in Madayapattu village, Serpadi post, Anaikattu taluk, vellore district and issue patta to the Petitioner for the land as per his representations, the last one being on 1.10.2020.

For Petitioner : Ms.Hema Sampath, Senior Counsel
assisted by Ms.R.Meenal

For Respondents : Mr.R.Vijayakumar
Additional Government Pleader for R1 to R4

ORDER

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

The petitioner is an Ex-serviceman, so also his father and according to the petitioner, his father came into possession of a waste land in SF.No.88 of Madayapattu village, Serpadi post, Anaikattu Taluk, Vellore District, admeasuring an extent of 1.96 acres, even in the year 1940 and

developed the land and started cultivation by raising guava trees as well as coconut trees. The petitioner would further submit that since his father is an Ex-serviceman, positive recommendation has also been made for assignment of land in his favour and the proposal is still pending. All of a sudden, to his shock and surprise, the 3rd respondent has issued the impugned notice dated 21.09.2020, purportedly invoking Section 131 of the Tamil Nadu Panchayat Act, informing the petitioner that he had encroached upon a Pond (a small waterbody) and in the light of the Government Order to reclaim and deepen the said waterbody, he has to be evicted and therefore, called upon him to vacate and deliver the peaceful possession of the said land within a period of two days, failing which appropriate action will be taken in accordance with law.

2. Ms.Hema Sampath, learned Senior Counsel assisted by Ms.Meenal, learned counsel appearing for the petitioner has drawn the attention of this Court to the typed set of documents and would submit that admittedly, the petitioner as well as his father are Ex-serviceman and the father of the petitioner came into possession of the land in question in the year 1940 and

even at that time, it remained only as barren land and as such it is misnomer to classify the land as a Pond. In the light of the fact that the land is used for raising crops etc., and also on account of the fact that positive recommendation made for assignment of the land in favour of the petitioner, prays for appropriate orders.

3. Mr.R.Vijayakumar, learned Additional Government Pleader accepts notice on behalf of the respondents 1, 2 and 4 and would submit that the revenue classification of the land in question remains as a Pond (small waterbody) and since action is taken by the 3rd respondent in accordance with law, petitioner cannot make any grievance and prays for dismissal of this Writ Petition.

4. This Court has carefully considered the rival submissions and also perused the materials placed before it.

5. Though the petitioner prays for a larger relief, this Court without going into the merits of the claim projected by the petitioner, either in his

representation, or in this Writ Petition, directs the 3rd respondent to afford an opportunity of personal hearing to the petitioner, who is also required to produce relevant and authenticated documents as to the alleged long possession and enjoyment and thereafter consider and dispose of the petitioner's representation dated 01.12.2020, on merits and in accordance with law and pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order and till such time, shall defer further decision in terms of the impugned notice dated 21.09.2020.

6. The Writ Petition stands disposed of, accordingly. No costs. Consequently connected miscellaneous petition is closed.

[M.S.N.,J]

[R.H., J]

02.12.2020

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Internet : Yes/No

Index : Yes/No

To

1.The Secretary,

The State of Tamil Nadu

Rural Development and

Panchayat Raj Department, Fort St.George, Chennai 600 009.

M.SATHYANARAYANAN, J.,
AND
R.HEMALATHA.,J
sk

2.The District Collector,
Vellore District, Vellore.

3.The Block Development Officer,
Anaikattu Panchayat Union,
Vellore District.

4.The Tahsildar,
Vellore District.



W.P.No.16803 of 2020

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