

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2020

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Writ Petition No.35207 of 2019

Palanimuthu

... Petitioner

Vs

1.The Sub Collector,
Virudhachalam Taluk,
Cuddalore District.

2.The Revenue Divisional Officer,
Virudhachalam Taluk.

3.The Revenue Divisional Officer,
Tittakudi Taluk.

4.The Tahsildar,
Tittakudi Taluk.

5.The Deputy Tahsildar,
Tittakudi Taluk.

6.The Superintendent of Police,
Cuddalore District,
Cuddalore.

7.Pattammal

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 5th respondent herein to take necessary steps by virtue of the letter of the third respondent in Na.Ka.A1/860/2019 dated 12.09.2019 to evict the 7th respondent as a permanent solution from the petitioner's land in Survey No.189/12 at A.Palayam Village, Tittakudi Taluk and directing the 6th respondent to give adequate police protection while the 5th respondent to evicting

the 7th respondent by name Pattamal.

For Petitioner : Mr.S.Saravanakumar

For Respondents : Mr.E.Balamurugan,
Special Government Pleader
for R1 to R6

No appearance for R7

O R D E R

[Order of this Court was made by R.SUBBIAH, J.]

The writ petition has been filed for Mandamus directing the 5th respondent herein to take necessary steps by virtue of the letter of the third respondent in Na.Ka.A1/860/2019 dated 12.09.2019 to evict the 7th respondent from the petitioner's land in Survey No.189/12 at A.Palayam Village, Tittakudi Taluk and directing the 6th respondent to give adequate police protection while the 5th respondent evicting the 7th respondent by name Pattamal.

2.In the affidavit filed in support of the writ petition, it is averred that the petitioner's mother Alamelu Ammal had occupied the Government Poramboke land to the extent of 00373 sq.ft. in Survey No.189 at A.Palayam Village, Tittakudi Taluk, in which, she has constructed a residential house and she got patta in her name on 20.01.1982. After her demise, the petitioner and his brother, being the legal heirs, had acquired the property and they are in possession and enjoyment of the said property and paying all relevant taxes. While so, the 7th respondent by name Pattamal, who is an adjacent owner of the petitioner's property, taking advantage of the family circumstances, has encroached the pathway in Survey No.189/12 at A.Palayam Village, Tittakudi Taluk and created hindrance to the pathway in reaching the petitioner's home. Therefore, the petitioner has filed an Original Suit in O.S. No.33 of 2016 on the file of the District Munsif cum Judicial Magistrate, Tittagudi Taluk and obtained decree and judgment dated 31.08.2016 in his favour. Even then the said Pattammal had not removed the encroachment by stating that the land is classified as Government Natham Poramboke and she also had patta in her name.

3.The grievance of the petitioner is that since he is the absolute owner of the property, the 7th respondent has no right

over the property. In this regard, the petitioner has made a representation to the second respondent to cancel the patta, which in the name of Pattammal and to take appropriate action to remove the encroachment. Based on the representation, the second respondent had sent a letter to the third respondent to conduct an enquiry and submit a report. The third respondent gave a report to the second respondent to cancel the patta in the name of the 7th respondent. Thereafter, the fourth respondent had issued notices under Sections 7 and 6 of the Land Encroachment Act, 1905 to remove the encroachment on 15.06.2018. Despite the same, the 7th respondent has not vacated the above property. Therefore, the petitioner made representations to respondents 1, 2 and 4 to take appropriate action pursuant to the above notices. As the respondents concerned have not taken any action for removal of encroachment, the petitioner is before this Court seeking the above prayer.

4. Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for respondents 1 to 6.

5. A counter affidavit has been filed by the fourth respondent stating that as against the cancellation of patta, the 7th respondent had filed an Appeal on 27.02.2019 before the District Collector, Cuddalore and the said Appeal is pending.

6. Since the Appeal filed by the 7th respondent is still pending, this Court cannot give any positive direction to the petitioner. Therefore, this Court directs the District Collector, Cuddalore to dispose of the Appeal filed by the 7th respondent, by affording an opportunity of personal hearing to the petitioner as well as the 7th respondent, within a period of eight weeks from the date of receipt of a copy of this order. Subject to the result of the Appeal, respondents 1 to 6 shall initiate further action in accordance with law.

7. With the above direction, the writ petition is disposed of. No costs.

Sd/-
Assistant Registrar (CS VI)
//True Copy//

Sub Assistant Registrar

vga

3/4

To

1.The District Collector Cuddalore

2.The Sub Collector
Virudhachalam Taluk,
Cuddalore District.

3.The Revenue Divisional Officer,
Virudhachalam Taluk.

4.The Revenue Divisional Officer,
Tittakudi Taluk.

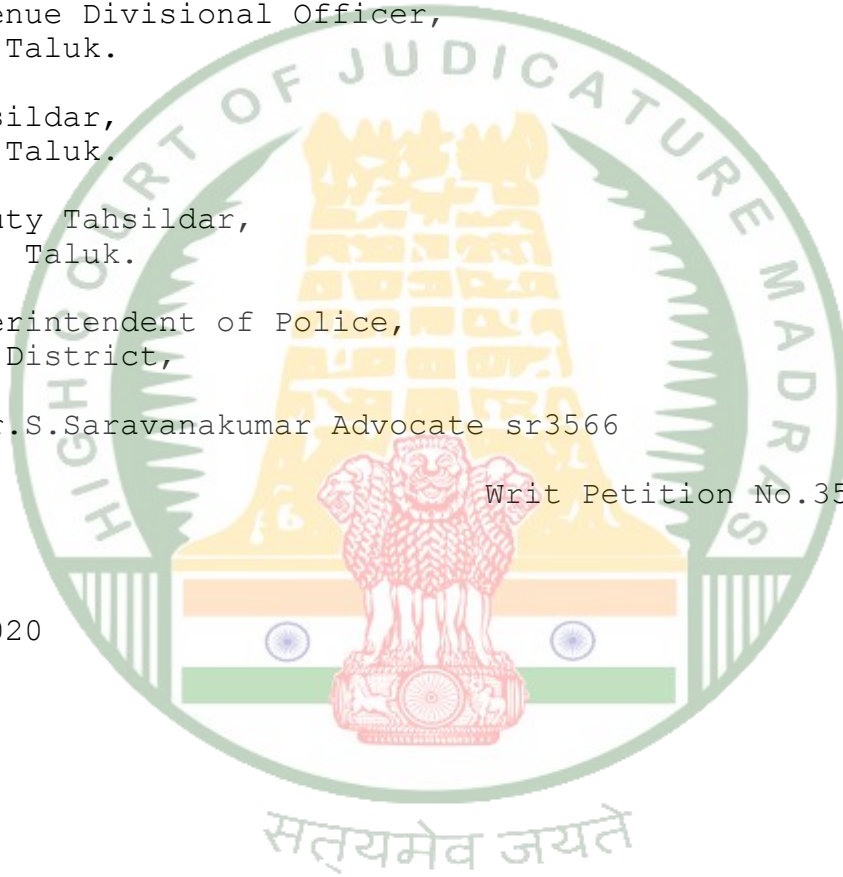
5.The Tahsildar,
Tittakudi Taluk.

6.The Deputy Tahsildar,
Tittakudi Taluk.

7.The Superintendent of Police,
Cuddalore District,
Cuddalore.
+lcc to Mr.S.Saravanakumar Advocate sr3566

Writ Petition No.35207 of 2019

sj (co)
aa11/02/2020



WEB COPY