



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.01.2020

CORAM

**THE HONOURABLE MR.JUSTICE M.DURAI SWAMY
AND**

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

W.P(MD)No.182 of 2020

and

W.M.P(MD)Nos.118 and 120 of 2020

Saroja

... Petitioner

Vs.

1.The District Collector,
Office of the District Collector,
Theni District.

2.The Tahsildar,
Taluk Office,
Andipatti Taluk,
Theni District.

3.The Block Development Officer,
Office of the Block Development Officer,
Andipatti Taluk,
Theni District.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari calling for the records pertaining to the impugned order passed by the third respondent vide his proceedings in Na.Ka.No.5733/2019/B5, dated 10.12.2019 and quash the same as illegal.

For Petitioner : Mr.B.Arun

For Respondents : Mr.J.Gunaseelan Muthiah
Additional Government Pleader

ORDER

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

The petitioner has filed the above writ petition to issue a writ of certiorari to call for the records pertaining to the impugned order passed by the third respondent dated 10.12.2019 and to quash the same.



2. By the impugned order dated 10.12.2019, the third respondent called upon the petitioner to remove the encroachment made in Survey No.1539/2 within a period of ten days.

3. The petitioner contended that he has obtained patta in respect of the said land and therefore, his possession should not be disturbed by the authorities.

4. On a perusal of the patta enclosed in the typed set of papers, it is clear that the petitioner had obtained patta only in respect of Survey No.641/23 and not in respect of Survey No.1539/2.

5. The learned Counsel appearing for the petitioner initially contended that Survey No.641/23 was re-surveyed as Survey No.1539/2 and therefore both the survey numbers are one and the same. But, Mr.J.Gunaseelan Muthiah, learned Additional Government Pleader produced a letter dated 04.12.2019 sent by the Tahsildar, Andipatti to the Block Development Officer, Andipatti, informing him that Survey No.641/23 was re-classified as Natham Survey Nos.1538/57, 58, 60 and 61 and that the petitioner had encroached the land in Survey No.1539/2 and also put up construction in the said property. That apart, the petitioner has also filed a civil suit in O.S.No.77 of 2019, on the file of the District Munsif Court, Andipatti for declaration and permanent injunction in respect of Survey No.641/23 alone.

6. On a perusal of the averments made in the plaint, it is clear that the petitioner has averred only in respect of Survey No.641/23 and he has not averred a single word with regard to Survey No.1539/2. That apart, even in the affidavit filed in support of this writ petition, the petitioner has not stated anything about Survey No.1539/2. When the authorities had specifically stated that Survey No.641/23 does not relate to Survey No.1539/2, we do not find any error or irregularity committed by the third respondent in issuing the impugned order. That apart, the Honourable Division Bench of this Court in W.P. (MD)No.19911 of 2019, by order dated 17.09.2019 directed the Tahsildar, Andipatti, to consider the representation given by the petitioner therein viz., S.Narayana Samy and take action in accordance with law, after notice to the private respondents.

7. The learned Additional Government Pleader submitted that proper notices were issued to the respondents and only after following due process of law, the impugned order was passed.

8. In view of the submissions made by the learned Additional Government Pleader, we do not find any merit in the



writ petition. Accordingly, the Writ Petition is dismissed. There shall be no order as to costs. Consequently, the connected Miscellaneous Petitions are also dismissed.

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Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

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To

1.The District Collector,
Office of the District Collector,
Theni District.

2.The Tahsildar,
Taluk Office,
Andipatti Taluk,
Theni District.

3.The Block Development Officer,
Office of the Block Development Officer,
Andipatti Taluk,
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+1 CC to SPL.GP (SR-732[F] dated 08/01/2020)

+1 CC to MR.B.ARUN, Advocate (SR-1045[F] dated 09/01/2020)

+1 CC to MR.J.GUNASEELAN MUTHIYA, Advocate (SR-1226[F] dated 09/01/2020)

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