



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :05.08.2020

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THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P. (MD) No.6601 of 2013

and

M.P. (MD) No.2 of 2013

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1.S.Nagarajan

2.N.Revathi

...Petitioners

Vs

1.Joint Director,
Animal Husbandry and Veterinary Services,
Tuticorin District,
Tuticorin.

2.The District Collector,
Tuticorin District,
Collectorate,
Tuticorin 628 101.

3.The District Revenue Officer,
Tuticorin District,
Collectorate,
Tuticorin 628 101.

4.The Tahsildar,
Ottapidaram Taluk,
Ottapidaram - 628 401.

5.The Block Development Officer,
Ottapidaram Panchayat Union,
Ottapidaram 628 401.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to forbear the respondents 2 and 5 from in any way dispossessing the petitioners, in respect to the lands situated in Zamin, Old Survey Nos.502, 502-A and 502-C and Resurveyed under the settlement correlated to Survey No.376/2 to an extent of 80 cents, presently as per UDR Survey to an extent of 0.32.5 ares, Survey No.376/4 to an extent of 8 cents, as per UDR Survey to an extent of 0.03.0 ares, and Survey No.376/3 to an extent of 5 cents as per UDR Survey to an extent of 0.02.0 ares totalling 93 cents corresponding to 0.37.5 ares, in Pasuvanthanai Village, Ottapidaram Taluk, Tuticorin District, either by putting up any constructions in the lands or by any other mode, except otherwise, in accordance with law.



For Petitioners

: Mrs.P.Jessi Jeeva Priya

For Respondents

: Mr.P.Kannidevan

Additional Government Pleader

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ORDER

This writ petition is filed to forbear the respondents 2 and 5 from dispossessing the petitioners in respect of the property situated in Zamin, Old S.Nos.502, 502-A and 502-C (Re.S.No.376/2) measuring to an extent of 80 cents, S.No.376/4, measuring to an extent of 8 cents and S.No.376/3, measuring to an extent of 5 cents, situated in Pasuvanthanai Village, Ottapidaram Taluk, Tuticorin District.

2.According to the petitioners, the 5th respondent is contemplating to put a construction in the petitioners' property in S.Nos.565, 376/3 and 376/4. In that regard, the 2nd petitioner, by her representation dated 01.04.2013 requested the 5th respondent not to put up any construction in the aforesaid property. So far, no action has been taken by the 5th respondent. Hence, the present writ petition.

3.The 1st respondent / the Joint Director, Animal Husbandry and Veterinary Services, Tuticorin District, Tuticorin, has filed a counter affidavit, wherein, it had been stated as follows:-

9.It is submitted that since the petitioners raised objection to construct Veterinary Dispensary Building in Natham Poramboke Resurvey No.565/1 of Paasuvandhanai Village, the District Collector ordered to construct the said building in Natham Poramboke Re-Survey No.565/10 and 11 (20 cents) of Pasuvandhanai Village. In that place also objected by the petitioners herein and hence a review meeting was held on 29.06.2012 among the District Collector-Thoothukudi, Joint Director of Animal Husbandry-Thoothukudi and the PWD authorities. After the said review meeting, the District Collector-Thoothukudi asked the Joint Director of Animal Husbandry to take speedy action to identify alternate site for the said purpose. Accordingly, the Natham Poramboke Re-Survey No.565/12 was shown as alternative place by the District Collector-Thoothukudi vide Roc.No.V7/1287/12, dated 07.07.2012 to construct the Dispensary Building for Animal Husbandry.

10.It is submitted that the Executive Engineer, Public Works Department (C&M), Thoothukudi vide Lr.No.492M/VaPee/EdVaAa1/Ko73/2003 dated 24.07.2013, informed

<https://hcservices.hcservices.com/ur/hcservices> completion report as stated below:-



Tender date	:26.10.2012
Date of commencement of construction	:10.12.2012
Target date of completion	:09.04.2013
Date of completion	:09.07.2013
Building handed over date	:10.07.2013

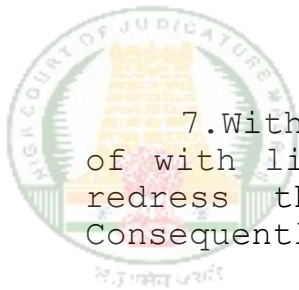
11.It is submitted that in the place allotted by the Tahsildar, Ottapidaram as per his Certificate, dated 14.09.2015 (in Re.S.No.565/12 of Pasuvandhanai Village, in an extent of 0.08.0 Hectares) only the Dispensary Building for Animal Husbandry Department has been constructed. It is pertinent to note here that either the Re.Survey No.565/1 or the Re-Survey Nos.565/10 and 11 or the Re-Survey No.565/12 of Pasuvandhanai Village is not the petitioner's patta land. It is a Government Natham Poramboke Land. The Revenue Authorities have confirmed and issued certificate that the land disputed by the petitioners is not patta land and it is a Government Natham Poramboke Land.

12.It is submitted that the Encumbrance Certificate for the period from 01.01.1987 to 08.09.2015 relating to this petition land reveals that there is no execution in the Kadambur Sub Registration Office, relating to the Survey No.565/12 of Pasuvandhanai Village, Palayamkottai Zone in Tirunelveli District.

4.From the above, it is seen that as per the proceedings of the 4th respondent dated 14.09.2015, the Executive Engineer, PWD (C&M), Thoothukudi, had constructed a building only in respect of the land in Re.S.No.565/12 situated in the said village and by proceedings dated 24.07.2013, a report of the completion work of said building has been handed over to the respondents.

5.Further, it is seen that as per the certificate issued by the revenue authorities, the land disputed by the petitioners in Re.S.No.565/1, Re.S.Nos.565/10, 565/11 and 565/12 situated at Pasuvandhanai Village is not the petitioners' patta land and it is a Government Natham Poramboke Land.

6.In view of the above dispute, regarding title over the aforesaid property, the petitioners have to approach the civil Court, by adducing oral and documentary evidence and this Court cannot go in the same, under Article 226 of the Constitution of India. Therefore, the only remedy available to the petitioners is to approach the civil Court to redress their grievance.



7. With the above observations, this Writ Petition is disposed of with liberty to the petitioners to approach the civil Court to redress their grievances, if they are so advised. No costs. Consequently, connected Miscellaneous Petition is closed.

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Sd/-

Assistant Registrar (CrI.Side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. Joint Director,
Animal Husbandry and Veterinary Services,
Tuticorin District,
Tuticorin.

2. The District Collector,
Tuticorin District,
Collectorate,
Tuticorin 628 101.

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5. The Block Development Officer,
Ottapidaram Panchayat Union,
Ottapidaram 628 401.

+1 CC to M/s.S. SUBBIAH, Advocate (SR-13865[F] dated 07/08/2020)

W.P. (MD) No.6601 of 2013

05.08.2020

AP(24/08/2020) 4P 7C

<https://hcservices.ecourts.gov.in/hcservices/>