



WEB COPY

W.P.(MD)No.2781 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE **T.RAJA**

AND

THE HONOURABLE MR. JUSTICE **B.PUGALENDHI**

W.P. (MD)No.2781 of 2020
and W.M.P. (MD)No.2360 of 2020

Murugan

.... Petitioner

Vs.

1. The Tahsildar,
Karambakudi Taluk,
Pudukkottai District.

2. The Special Tahsildar,
Adi Dravidar Welfare,
Aranthangi,
Pudukkottai District.

.... Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issuance of writ of certiorarified mandamus, to call for the records relating to the impugned order of the 1st respondent dated 18.01.2020 in Na.Ka.145/2020/A2, quash the same and consequently, forbear the respondents from interfering with the peaceful possession and enjoyment of the petitioner in Plot No.43 in Old S.No.56 or New S.No.56/2 situated at Karambakudi Village & Taluk, Pudukkottai District.

For Petitioner : Mr.J.Anandkumar

For Respondents : Mr.J.Gunaseelan Muthiah

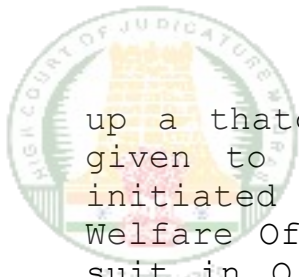
Additional Government Pleader

ORDER

[Order of the Court was made by **T.RAJA, J.**]

The writ petitioner, Murugan, questioning the impugned notice dated 18.01.2020 issued by the Tahsildar, Karambakudi, treating him as encroacher in Survey No.56/52 having an extent of 00190 sq.m., has filed this petition.

2. Learned counsel for the petitioner submitted that Survey No.56/2 situated at Karambakudi village was having an extent of 1 acre 91 cents and the same was acquired by the Special Tahsildar, Adi Dravidar Welfare, Aranthangi. Thereafter, the said land was sub-divided into various plots and the land in plot No.43 was
as a result of the petitioner's wife and later on, they put



up a thatched house and electricity service connection was also given to them. While so, in the year 2000, a proceeding was initiated by the Pudukkottai District Backward and Minority Welfare Officer to vacate the said land. Challenging the same, a suit in O.S.No.82 of 2000 was filed before the learned District Munsif, Pudukkottai, seeking a decree of perpetual injunction and after the full-fledged trial, the learned District Munsif Court, Pudukkottai, decreed the suit in their favour by Judgment and Decree dated 08.04.2001. As the status of the house was in a dilapidated condition, the petitioner approached a Bank for renovating the same, but, the Bank in turn advised him to settle the property in his name. Therefore, the petitioner's wife settled the property in his favour by a registered settlement dated 07.11.2019. Thereafter, while registering, the petitioner was directed to produce the assignment. Therefore, the petitioner made a representation to the second respondent, who in turn, made a request to the District Collector, Pudukkottai, for which, the District Collector also directed the second respondent to get a copy from the office of the first respondent. Thereafter, the petitioner started construction. In the meanwhile, the impugned notice has been issued by the first respondent, alleging that the petitioner has encroached the land, which falls in Survey No.56/52. Challenging the same, the petitioner has filed this writ petition.

3. Learned counsel appearing for the petitioner further submitted that when Plot No.43 situated in Survey No.56/2 has been assigned, by order dated 14.12.1999, in favour of the petitioner's wife, the petitioner has not encroached into any property. If the respondents want to confirm the assignment proceedings, they may undertake a survey. Once the survey is made, they will be able to demarcate the extent of assignment given to the petitioner. Further, if any excess land is encroached by the petitioner, the respondents may take a final decision.

4. Learned Additional Government Pleader also submitted that the respondents, before proceeding further under the impugned proceedings, would conduct a survey in the presence of the family members of the petitioner and thereafter, in the event of finding any encroachment apart from the land assigned to the petitioner's wife under the assignment order, they would take action as per law.

5. In view of the above, the respondents are directed to undertake a survey of the disputed land and if any encroachment is made apart from the land assigned to the petitioner's wife under the assignment order, it is open to the respondents to take action in accordance with law.



6. With the above direction, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (CRL.SIDE)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

1. The Tahsildar,
Karambakudi Taluk,
Pudukkottai District.
2. The Special Tahsildar,
Adi Dravidar Welfare,
Aranthangi,
Pudukkottai District.

+1 CC to SPL.GP (SR-6105[F] dated 13/02/2020)

W.P. (MD) No.2781 of 2020

12.02.2020

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