



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 19.03.2020

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

and

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P. (MD) .No.4781 of 2020

W.M.P. (MD) .Nos.4151 and 4153 of 2020

G.Sebasthiyammal

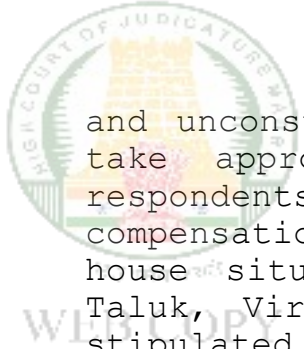
.. Petitioner

/Vs./

- 1.The District Collector,
Virudhunagar District,
Virudhunagar.
- 2.The District Revenue Officer,
Virudhunagar District,
Virudhunagar.
- 3.The Commissioner,
Thiruthangal Municipality,
Thiruthangal,
Virudhunagar District.
- 4.The Tahsildar,
Sivakasi Taluk,
Sivakasi,
Virudhunagar District.
- 5.The Revenue Inspector,
Thiruthangal Town,
Sivakasi Taluk,
Virudhunagar District.
- 6.Mr.Ranganathan,
Tahsildar,
Sivakasi Taluk,
Sivakasi, Virudhunagar District.
- 7.Mr.Sureshkumar,
Revenue Inspector,
Thiruthangal Town,
Sivakasi Taluk,
Virudhunagar District.

.. Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India for issuance of writ of Certiorarified mandamus, to call for the records on the file of the 4th respondent in connection with the impugned Eviction Notice issued by him vide his proceedings in Na.Ka.P1/2742/2019, dated 22.01.2020 and quash the same as illegal



and unconstitutional and consequently direct the 1st respondent to take appropriate departmental action against the 4th and 5th respondents and thereby direct the 6th and 7th respondent to pay compensation for the illegal demolition of a part of petitioner's house situated in S.NO.1273A/132 of Thiruthangal Town, Sivakasi Taluk, Virudhunagar District, within the time limit that may be stipulated by this Court.

For Petitioner : Mr.G.Thalaimutharasu
 For Respondents : Mr.D.Muruganandam for R1, 2, 4 and 5
 Additional Government Pleader

O R D E R

(Order of this court was made by **S.S.SUNDAR, J.**)

This writ petition is filed by the petitioner challenging the order passed by the 4th respondent, dated 22.01.2020, asking the petitioner to remove the encroachment within seven days.

2.The petitioner purchased an extent of 107.18 sq. meter of land in S.No.1273A/132 in Thiruthangal Village, Sattur Taluk, Virudhunagar District. It is pertinent to mention that patta that was given to the petitioner's vendor earlier was only in respect of an extent of 95 sq. meter. Later the petitioner appears to have put up a construction in the property as per the sale deed. The building according to the petitioner was constructed as per the sanction order obtained on 19.06.2017. Patta was issued to the petitioner in respect of an extent of 107 sq. meter in S.No.1273A/132.

3.However, one Mariammal the neighbour of the petitioner filed a writ petition in W.P.(MD).No.13812 of 2018 complaining encroachment by petitioner in public pathway and asked for survey of the land in S.No.1273A/138 which according to her is a pathway. This Court directed the official respondents in the writ petition to verify the revenue records and other records as regards classification, ownership, possession, enjoyment and rival claims and to conduct an enquiry after affording opportunity of personal hearing to parties interested. This was followed by another writ petition by the said Mariammal in W.P.(MD).No.19769 of 2018. By order, dated 22.11.2018, this Court set aside the order passed by the second respondent namely the Tahsildar rejecting the request of said Mariammal for survey of land and to remove the encroachment made in the public pathway which runs through the S.No.1273A/138 and disposed of in the following lines.

"8.Accordingly, the impugned order passed by the second respondent, dated 30.06.2018, is set aside and the matter is remitted back to the second respondent for fresh consideration. The second respondent is directed to issue show cause notice to the

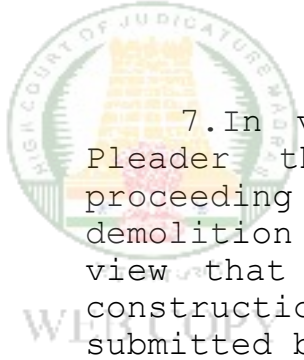


encroachers and conduct a survey with the help of Taluk Head Surveyor based on the title documents of the petitioner. If the second respondent finds that there is encroachment, he is directed to remove the encroachment in accordance with law. The entire exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order."

4. It was thereafter, a survey was conducted and the respondents have found that a small portion of petitioner's property is in encroachment of the public pathway. Therefore, proceeding was initiated by the respondents on 02.11.2019 by issuing a notice under Section 7 of the Land Encroachment Act. The petitioner challenges the said order before this Court in W.P.(MD).No.434 of 2020. The said writ petition was disposed of by order, dated 09.01.2020, leaving it open to the respondent to pass order after considering the objections raised by the petitioner to the show cause notice. It is pertinent to point out that the petitioner challenges only the show cause notice in the writ petition in W.P.(MD).No.434 of 2020. Thereafter, the third respondent namely the Tahsildar has passed an order under Section 6 of the Land Encroachment Act on 22.01.2020, indicating that the petitioner is in encroachment of an extent of 30 sq. meter by putting up a wall.

5. The petitioner aggrieved by the order of Tahsildar under Section 6 of the Act, preferred an appeal before the District Revenue Officer under Section 10 of Tamil Nadu Land Encroachment Act. In the meanwhile the petitioner has also filed a civil suit in O.S.No.25 of 2020 for permanent injunction restraining the defendants namely revenue officials and the said Mariammal from interfering with the peaceful possession and enjoyment of the property. The suit property has been described as a property in S.No.1273A/132 measuring an extent of 100.07 sq. meter and 7.11 sq. meter in the same survey number which are described as item Nos.1 and 2 in the plaint. Though the petitioner has raised several contentious issues by referring to his title documents, learned counsel for the petitioner after hearing the arguments and seeing the photographs produced by the learned Additional Government Pleader, submitted that the petitioner has now removed the small portion which was encroaching into the public pathway. The entire projections into the public pathway has been demolished and new wall has been constructed well within the boundary line of the petitioner's property.

6. The learned Additional Government Pleader submitted that the encroached portion has been demolished by the petitioner himself as submitted by the learned counsel appearing for the petitioner. The photographs produced by the learned Additional Government Pleader as well as the petitioner shows that there is no encroachment as on date obstructing the pathway.



7. In view of the statement of learned Additional Government Pleader that no further proceedings is contemplated and no proceeding is pending for removal of encroachment in view of the demolition and removal of encroached portion, this Court is of the view that no further adjudication is required. Demolition and construction of new wall within the property of petitioner as submitted by the counsel for the petitioner is recorded.

8. Hence, this writ petition is closed by recording the facts as pleaded and acknowledged by the counsels on either side. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD-II)

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/ /2020

Sub Assistant Registrar(CS)

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To

1. The District Collector, Virudhunagar District, Virudhunagar.
2. The District Revenue Officer, Virudhunagar District, Virudhunagar.
3. The Commissioner, Thiruthangal Municipality, Thiruthangal, Virudhunagar District.
4. The Tahsildar, Sivakasi Taluk, Sivakasi, Virudhunagar District.
5. The Revenue Inspector, Thiruthangal Town, Sivakasi Taluk, Virudhunagar District.

+1 CC to SPL.GP (SR-12676[F] dated 20/03/2020)

+1 CC to Mr.G.THALAIMUTHARASU, Advocate (SR-12790[F] dated 23/03/2020)

W.P. (MD) .No.4781 of 2020
19.03.2020

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