



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.07.2020

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.P. (MD)No.7760 of 2020

and

W.M.P. (MD)Nos. 7243 and 7245 of 2020

N.Siva Perumal

...Petitioner

Vs.

1.The District Collector,
Collectorate, Dindigul District.

2.The District Revenue Officer,
O/o. the District Revenue Officer,
Dindigul District.

3. The Revenue Divisional Officer,
O/o. the Revenue Divisional Officer,
Dindigul.

4. The Thasildar,
Taluk Office,
Vedasandur, Dindigul District.

5. The Block Development Officer,
Panchayat Union Office,
Vadamadurai, Dindigul District.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for records pertaining to the order passed by the 5th respondent in M.P.No.2814/2019/T1, dated 10.07.2020 and quash the same and consequently forbear the respondents herein from in anyway interfering with the peaceful possession and enjoyment of property in Dindigul District, Vedasandur Taluk, Sithuvarpatti village, Vadugapatti in Survey No. 279/59, over an extent of 004.17 Sq. Metres.

For Petitioner : Mr. J.Sathiaraj

For Respondents 1 to 4 : Mr. R.Murugan,
Additional Government Pleader
Mr.S.Angappan,
Government Advocate for R5

**O R D E R**

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

It is the claim of the petitioner that he is a resident of Vadugapatti, Sithuvarpatti Village, Vedasandur Taluk and in the land classified as grama natham in Survey No.279/59, Sithuvarpatti Village, admeasuring an extent of 004.17 square metre, he put up a house and is residing in the same and prior to the same his forefathers were in possession and enjoyment of the land. The petitioner has approached the President of the local body viz. S.Chandra, President of Sithuvarpatti Panchayat, Vadamadurai Union, Dindigul District for issuance of property tax and she made a recommendation dated nil to the 5th respondent in this regard and the contents of the same would reveal among other things that she herself is in possession of the land by planting trees. The learned counsel for the petitioner has drawn the attention of this Court to page No.5 of the typed set of papers, wherein the petitioner himself has submitted a representation to the President of Sithuvarpatti Panchayat and prayed for issuance of house tax receipt and also patta in respect of the said land, stating among other things that the local residents have no serious objections for issuance of patta and for property tax assessment in his favour. The 5th respondent after taking note of the facts and circumstances and having found that the petitioner is in occupation of the said land and put up a temporary shed and has also obtained electricity connection, issued the impugned notice dated 10.07.2020, calling upon him to remove the encroachment within one week, failing which appropriate action would be initiated to remove the shed with police aid. The petitioner in response to the said notice submitted a representation dated 11.07.2020 and apprehending actions at the hands of the 5th respondent without recourse to due process of law, he came forward to file this Writ Petition.

2.Mr.R.Murugan, learned Additional Government Pleader, accepts notice on behalf of the respondents 1 to 4 and Mr.S.Angappan, learned Government Advocate, accepts notice on behalf of the 5th respondent.

3.The learned Government Advocate appearing for the fifth respondent would submit that according to the communication of the president of the panchayat addressed to the 5th respondent she claims to be in possession, whereas the petitioner in his representation dated 30.05.2020, which is available at page 5 of the typed set of documents, he claims to be in possession. The fact remains that there is no proof to show that the land in question is classified as grama natham and since the action is taken in accordance with law, the petitioner being a rank encroacher cannot seek protection of this Court.



4.This Court considered the rival submissions and perused the materials placed before it.

5.It is relevant to extract hereunder Section 131 of the Tamil Nadu Panchayat Act, 1990:

"131. Prohibition against obstructions in or over public roads, etc.-

(1) No person shall, except as permitted by Rules made under this Act and except in accordance with the conditions imposed by any licence made requisite by such Rules-

(a) build any wall or erect any fence or other obstruction or projection or make any encroachment whatsoever, whether permanent or temporary, in or over any public road or any property vested in or belonging to or regulated or owned by, a Village Panchayat or Panchayat Union Council;

(b) make any hole or deposit any matter in or upon any public road or any property vested in or belonging to or regulated or owned by, a Village Panchayat or Panchayat Union Council;

(c) work a quarry in or remove stone, earth or other material from any place within twenty metres of a public road or of other immovable property vesting in or belonging to a village panchayat or a panchayat union council, provided that nothing in this clause shall be deemed to apply to any work which, in the opinion of the Inspector, is done in connection with a *bona fide* agricultural operation;

(d) erect any building over any drain or any part thereof;

(e) plant any tree on any public road or other property vesting in or belonging to a Village Panchayat or a Panchayat Union Council; or

(f) fell, remove, destroy, lop or strip bark, leaves, or fruits from, or otherwise damage, any tree which is growing on any such public road or other property or on any poramboke land, the use of which is regulated by a Village Panchayat under Section 134 or Section 135 and the right to which has not been established by such person as vesting in or belonging to him.

(2) It shall be the duty of the Village Administrative Officer of every revenue village to report on encroachments on properties vested in Village Panchayats or Panchayat Union Councils to the Executive Authority or the Commissioner



concerned and to the officer of the Revenue Department, and it shall be the duty of the Executive Authority or the Commissioner concerned either *suo motu* or on obtaining a report from the Village Administrative Officer in this regard to institute proceedings under this Act and secure the removal of the encroachments within such time as may be specified by the Government by general or special order. If the removal of the encroachments has not been secured within the period specified in such order, the officers of the Revenue Department shall institute proceedings under the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905) and secure such removal."

6.The petitioner has submitted his representation dated 11.07.2020 to the impugned notice dated 10.07.2020 issued by the 5th respondent. Therefore, considering the facts and circumstances and without going into merits of the claim of the petitioner, the 5th respondent is directed to consider the representation of the petitioner dated 11.07.2020 and pass orders in the light of the above said position as expeditiously as possible within a period of two weeks from the date of receipt of a copy of this order and till such time shall defer its action in terms of the impugned notice dated 10.07.2020. It is also made clear that till the 5th respondent passes orders on the representation of the petitioner dated 11.07.2020, the petitioner shall not create any third party right in respect of the land in question.

7.The Writ Petition is disposed of accordingly. Consequently, connected Miscellaneous Petitions are closed. However, in the circumstances of the case, there shall be no order as to the costs.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Sj

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

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



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