



WEB COPY

W.P(MD)No. 10722 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.P(MD)No. 10722 of 2020

and

W.M.P. (MD) .No.9449 of 2020

M.Meenatchi

... Petitioner

Vs.

1.The District Collector,
Pudukkottai District,
Pudukkottai.

2.The Tahsildar,
Thirumayam Taluk,
Pudukkottai District.

3.The Inspector of Police,
Arimalam Police Station,
Pudukkottai District.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying to issue a writ of mandamus directing the respondent Nos.1 and 2 to follow the due process of law, while evicting the petitioner from S.F.No.561/2 and 651 of Perungudi Village, Senkeerai Region, Thirumayam Taluk, Pudukkottai District.

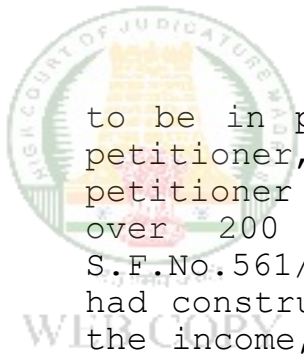
For Petitioner : Mr.B.Prasanna Vinoth for
Mr.AN.Ramanathan

For Respondents : Mr.R.Murugan
Additional Govt. Pleader

ORDER

(Order of the Court was made by **M.SATHYANARAYANAN, J.**)

The petitioner claims to be the owner of the land, admeasuring to an extent of 5 acres and 16 cents in S.F.No.560/23 of Perungudi Village, Senkeerai Region, Thirumayam Taluk, Pudukkottai District and in respect of the adjacent land bearing S.F.No.561/2, it was classified as poromboke land and the petitioner also claims



to be in possession and enjoyment of the same. According to the petitioner, the fore-fathers of the petitioner as well as the petitioner continue to enjoy the above stated survey numbers for over 200 years and a Vinayagar Statue was established in S.F.No.561/2 before 100 years and in the year 2007, the petitioner had constructed a Vinayagar Temple in the said place and to augment the income, the petitioner started to cultivate Eucalyptus trees in the adjacent land bearing S.F.No.651, which is classified as 'Government Poromboke Natham'. Further, according to the petitioner, S.F.No.652, admeasuring to an extent of 96 cents, stands in her name.

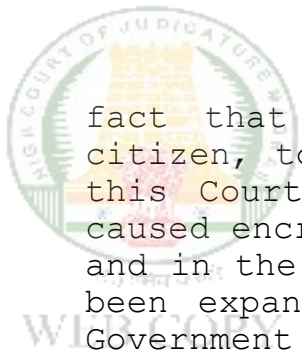
2. Apprehending dispossession at the hands of the respondents 1 & 2 viz., the Revenue Inspector of Senkeerai and the Tahsildar, Thirumayam, the petitioner along with her son filed a suit in O.S.No.299/2017 on the file of the Court of Subordinate Judge, Pudukkottai, restraining the defendants or their men from interfering with the peaceful possession and enjoyment of the land in Sy.No.561/2 of Perungudi Village, Senkeerai Region, Thirumayam Taluk, Pudukkottai District and the said suit came to be dismissed for default.

3. The learned counsel appearing for the petitioner has also drawn the attention of this Court to the notice, dated 21.08.2020, issued by the second respondent to the Hindu Religious and Charitable Endowments Department, Pudukkottai as well as the Sub Inspector of Police, Arimalam Police Station with copies marked to Revenue Inspector, Senkeerai and would submit that before causing inspection in respect of the alleged encroachment in Sy.No.561/2, the petitioner has not at all been put on notice to explain her case. The learned counsel would further submit that the second respondent lacks jurisdiction to remove the encroachment and hence, he prays for appropriate action.

4. Per contra, the learned Additional Government Pleader appearing for the respondents 1 to 3 would submit that the petitioner, in the typed set of documents in page No.5, produced a patta granted in her favour pertaining to the lands comprised in Sy.Nos.518/1, 522/11, 522/12, 532/6, 534, 544/8, 550/1, 559/6C, 559/6D, 560/20, 560/23 and 652, aggregating to an extent of 4.17.50 hectares. If at all, she is interested in preserving the temple, she can shift the temple to one of her patta lands. It is his further submission that the petitioner is a rank encroacher and she is not entitled to any equitable relief in the hands of this Court and hence, prays for dismissal of the writ petition.

5. This Court has carefully considered the rival submissions and also perused the materials placed on record.

6. Now-a-days, it has become fashion to plead that the respondents to follow the process of law forgetting the



fact that the petitioner is also under equal obligation, as a citizen, to follow the process of law. The materials placed before this Court would indicate that the forefathers of the petitioner caused encroachment of public lands in Sy.No.560/23 as well as 561/2 and in the land in Sy.No.561/2, a temple was put up and now, it has been expanded. As rightly pointed out by the learned Additional Government Pleader, as the petitioner is really interested in protecting the temple, it is open to her to shift the temple to one of her patta lands. The petitioner, being a rank encroacher, cannot seek equity, despite nothing have been explained why she is still in occupation of substantial portion of public lands in Sy.Nos.561/2 and 651.

7. It is also to be noted at this juncture that though the petitioner along with her son filed a suit in O.S.No.299/2017 against the official respondents as well as the Revenue Inspector restraining the defendants or their men from interfering with the peaceful possession and enjoyment of the land in Sy.No.561 /2 of Perungudi Village, Senkeerai Region, Thirumayam Taluk, Pudukottai District, she did not choose to prosecute the said suit, which was dismissed for default.

8. This Court, in the light of the above facts and circumstances of the case, is not inclined to issue any positive order in favour of the petitioner.

9. In the result, the writ petition is dismissed. If at all, the petitioner is aggrieved by any further acts of the official respondents, she is always at liberty to challenge the same, if law permits so, before the competent forum. No costs. Consequently, connected miscellaneous petition is also dismissed. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

VS

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/>



To

1.The District Collector,
Pudukkottai District,
Pudukkottai.

2.The Tahsildar,
Thirumayam Taluk,
Pudukkottai District.

3.The Inspector of Police,
Arimalam Police Station,
Pudukkottai District.

+1 CC to M/s.AN. RAMANATHAN, Advocate (SR-15737[F] dated 03/09/2020

+1 CC to M/s.GP (SR-15971[F] dated 04/09/2020)

W.P(MD)No. 10722 of 2020

02.09.2020

NR (17.09.2020) 4P 6C