



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.09.2020

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**THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM**

W.P(MD)No.11007 of 2020

and

W.M.P (MD)No.9661 of 2020

P.Sivasubramani

... Petitioner

Vs.

1.The District Collector,
Dindigul District,
Dindigul.

2.The Tahsildar,
Oddanchatram Taluk,
Dindigul District.

3.The Block Development Officer
(Village Panchayats),
Oddanchatram Panchayat Union,
Dindigul District.

4.The Village Panchayat President,
Odaipatti Village Panchayat,
Oddanchatram Panchayat Union,
Dindigul District.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the order passed by the fourth respondent in Notice No.Nil, dated 28.08.2020 and quash the same as illegal and without jurisdiction and consequently, direct the third respondent to grant patta by way of regularisation of long standing encroachment over a period of 50 years on payment of market value in terms of G.O.Ms.No.318, Revenue and Disaster Management Department, dated 30.08.2019, within the specific time frame as fixed by this Court.

For Petitioner : Ms.W.Pamelin

For Respondents : Mr.K.P.Krishnadoss
Special Government Pleader for R.1 to R.3



ORDER

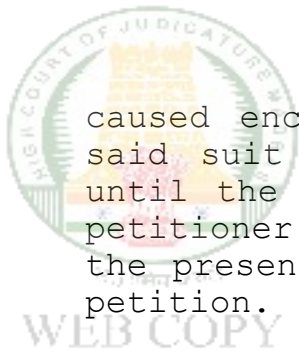
(Order of the Court was made by **M. SATHYANARAYANAN, J.**)

The petitioner is a resident of Jakkampatti Village, Oddanchatram Taluk, Dindigul District and in the affidavit filed in support of this writ petition, he would aver, among other things, that after the demise of his father in the year 2007, he got into the possession of 1/3rd of the landed properties comprising in S.Nos.782/1, 2B, 3, 4, 8; 743/3, 744/1, 2; 745/1 and 743/2 Part of Odaipatti Village and he continues to be in possession and enjoyment of the same.

2. It is also the case of the petitioner that the land in S.No.743/2 Part, is classified as Government poramboke in the revenue records and the family of the petitioner is in possession and enjoyment of the land admeasuring 0.07.77 Ares and is doing cultivation in the land admeasuring 0.06.50 Ares by way of cultivating onion crops and also raised 13 coconut trees as well as manavari crops and continues to be in possession of the said lands for more than 50 years without any interruption.

3. The petitioner would further aver that in the light of the Natham Settlement, vide G.O.Ms.No.1971, Revenue (SS11) Department, dated 14.10.1988, he is also entitled to do so and all of a sudden, the respondents started taking coercive steps to dispossess the petitioner from the lands and hence, the petitioner along with Kuppusamy and Chellamuthu filed a civil suit in O.S.No.273 of 2020 on the file of the Sub Court, Palani, against the respondents 1 to 3 as well as a private respondent, praying for declaration as to the right, title and ownership of the lands admeasuring to an extent of 6.5 cents in 742/2; 8 cents in 743/2 and 27 ft. X 13 ft. in S.No.742/2 of the said village as well as for other consequential reliefs and on account of COVID-19 pandemic virus, the interlocutory application could not be moved before the civil Court and taking advantage of the same, the fourth respondent has issued the impugned notice dated 28.08.2020, terming the occupation of the land in question at the hands of the petitioner as encroachment, overlooking the fact that the forefathers of the petitioner have been in possession and enjoyment of the said land for more than 50 years and also levelled the land and made it as an agricultural worthy by spending a considerable amount and therefore, prays for appropriate orders to protect his possession and also an opportunity to submit his response to the said notice, with a further direction to give a disposal in accordance with law.

4. Mr.K.P.Krishnadoss, learned Special Government Pleader accepts notice on behalf of the respondents 1 to 3 and has drawn the attention of this Court to the averments in the plaint in O.S.No.273 of 2020 on the file of the Sub Court, Palani, instituted by the petitioner along with two others and would submit that even as per the said averment, the forefathers of the petitioner and others had



caused encroachments and a declaration sought for by them in the said suit was also based upon prescriptive right and unless and until the petitioner and two others succeed in the said suit, the petitioner cannot prosecute a parallel proceedings in the form of the present writ petition and prays for the dismissal of this writ petition.

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

6. It is relevant to extract hereunder sub-section (2) of Section 131 of the Tamil Nadu Panchayats Act, 1994:

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

*(1) ******

(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."

7. Though the petitioner prays for a larger relief, in the light of the facts and circumstances of the case, this Court, without going into the merits of the claim projected by the petitioner in this writ petition and further taking into consideration the fact that any observation made on the merits of the case may have a bearing upon the suit instituted by the petitioner and two others in O.S.No.273 of 2020 on the file of the Sub Court, Palani, directs the fourth respondent to strictly adhere to sub-section (2) of Section 131 of the Tamil Nadu Panchayats Act, 1994 and proceed further strictly in accordance with law and complete the process as expeditiously as possible.



8. This writ petition stands disposed of accordingly. No costs. Consequently, the connected writ miscellaneous petition is closed.

Sd/-

Assistant Registrar (Crl.Side)

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Sub Assistant Registrar(CS)

RSB

Note: (i) 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.The Judge,Sub court,Palani.

2.The District Collector,
Dindigul District,
Dindigul.

3.The Tahsildar,
Oddanchatram Taluk,
Dindigul District.

4.The Block Development Officer
(Village Panchayats),
Oddanchatram Panchayat Union,
Dindigul District.

5.The Village Panchayat President, Odaipatti Village Panchayat,
Oddanchatram Panchayat Union, Dindigul District.

+1 CC to M/s.GP (SR-16117[F] dated 07/09/2020)

W.P (MD)No.11007 of 2020

and

W.M.P (MD)No.9661 of 2020

04.09.2020

AP (07/09/2020) 4P 7C