



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.08.2020

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE **D.KRISHNAKUMAR**

W.P. (MD) No.20958 of 2018
and
W.M.P. (MD) No.18737 of 2018

N.Narayanasamy ... Petitioner

Vs.

1.The District Collector,
Virudhunagar District, Virudhunagar.

2.The Revenue Divisional Officer,
Sattur, Virudhunagar District.

3.The Tahsildhar,
Sattur Taluk, Sattu,
Virudhunagar District.

4.The Revenue Inspector,
Nenmeni Firka, Sattur Taluk, Sattur,
Virudhunagar District.

5.The Village Administrative Officer,
Kundalakuthoor Panchayath,
Sattur Taluk, Sattur,
Virudhunagar District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the respondents or their men or agent or any other person claiming under them from interfering with the peaceful possession and enjoyment of the petitioner's property comprised in S.No.395/11, situated at Kundalakuthoor Panchayat, Sattur Taluk, Sattur, Virudhunagar District except under due process of law.

For Petitioner : Mr.P.R.Prithiviraj for
Mr.D.Sadiqraja

For Respondents : Mr.V.P.M.Vaishnavi,
Government Advocate



ORDER

This Writ Petition is filed forbearing the respondents from interfering with the peaceful possession and enjoyment of the petitioner's property comprised in S.No.395/11, situated at Kundalakuthoor Panchayat, Sattur Taluk, Sattur, Virudhunagar District except under due process of law.

2. The learned counsel appearing for the petitioner submitted that the property comprised in S.No.395/11 measuring an extent of 0.02.15.0 Hectares, situated at Kundalakuthoor Panchayat, Sattur Taluk, Sattur, Virudhunagar District belongs to the petitioner's mother, namely, Venkatammal. After his mother's demise, the petitioner's Sister executed a release deed in favour of the petitioner dated 23.08.1961. Therefore, the petitioner is in possession and enjoyment of the same. Subsequently, the President of Kundalakuthoor Panchayat, Sattur Taluk, Sattur, Virudhunagar District made arrangements for putting up road in the aforesaid land. In this regard, the petitioner filed a suit in O.S.No.1 of 2004 before the District Munsif Court, Sattur, seeking for permanent injunction. The said suit was decreed on 05.12.2005, in favour of the petitioner. As against which, the President, Kundalakuthoor Panchayat, Sattur Taluk, Sattur, Virudhunagar District filed an appeal suit in A.S.No.22 of 2006 on the file of the Sub Court, Sivakasi and the same was allowed on 17.11.2008. Aggrieved the same, the petitioner filed a second appeal in S.A. (MD)No.714 of 2010 before this Court. The second appeal was allowed on 11.07.2013 confirming the judgment and decree dated 05.12.2005.

3.The learned counsel for the petitioner further submitted that now the respondents have interfered with the peaceful possession and enjoyment of the property. Hence, the petitioner filed this Writ Petition.

4. When the matter was taken up for hearing at the admission stage itself, interim order has been granted by this Court. Therefore, according to the petitioner, the respondents shall not take steps to evict the petitioner from the petition mentioned property except under due process of law.

5.The learned Government Advocate appearing for the respondents submitted that as per revenue records, the petition mentioned property stands in the name of Government Poramboke Road. The relevant portion of the counter-affidavit reads as follows:

"6. I submit that further, under Section 14 of the Tamil Nadu Land Encroachment Act, there is an exclusive bar for the civil courts to conduct suits in respect of



the cases relating to revenue lands. Such circumstance, this Hon'ble Court may kindly take note of the revenue records such as adangal, Field Measurement Book (FMB) and Village map in which the S.No.395/11 has been classified as Government poramboke road. Therefore, in respect of S.No.395/11, the respondents have power to implement any schemes including laying of road in the interest of the general public."

6. Heard the learned counsel on either side and also perused the materials placed before this Court.

7. It is seen from the records that earlier suit in O.S.No.1 of 2004 on the file of the District Munsfi Court, Sattur, decreed in favour of the petitioner. In the said suit, the Revenue Department/respondents herein is not a party. Therefore, the said judgment and decree passed in the said suit is not binding on the respondents/department. The Writ Petitioner has been in possession of the property.

8.Considering the above facts, the Writ Petitioner shall not evict from the subject matter of the property except following due process of law.

9.This Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AS)

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Sub Assistant Registrar(CS)

das

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.

To

1.The Distrtit Munsif, Sattur.



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Virudhunagar District,
Virudhunagar.

3.The Revenue Divisional Officer,
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