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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2021

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.NO.3709 OF 2020

AND

W.M.P.NO.4383 OF 2020

Raniammal alias Rani

... Petitioner

-Vs-

1. The District Collector,
Tiruvannamalai District,
Tiruvannamalai.
2. The Tahsildar,
Tiruvannamalai Taluk,
Tiruvannamalai District.
3. The President,
Vengikal Village Panchayat,
Vengikal,
Tiruvannamalai Taluk and District.
4. The Village Administrative Officer,
Vengikal Panchayat,
Vengikal,
Tiruvannamalai Taluk and District.
5. The Vice President,
Vengikal Village Panchayat,
Vengikal,
Tiruvannamalai Taluk and District.

... Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, forbearing the respondents from interfering with the petitioner's peaceful possession and enjoyment of the property ad-measuring 72 ares comprised in Survey No.125/2 and property ad-measuring 10 cents comprised in Survey No.135/1 situated at Vengikal Village, Tiruvannamalai Taluk and District and from



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removing the crops standing in the aforesaid property by considering petitioner's representation dated 04.02.2020.

For Petitioner : Mr.R.Rajarajan

For R1, R2 & R4 : Mr.S.Rajesh
Government Advocate

ORDER

This Writ Petition has been filed for the issuance of Writ of Mandamus, forbearing the respondents from interfering with the petitioner's peaceful possession and enjoyment of the property ad-measuring 72 ares comprised in Survey No.125/2 and property ad-measuring 10 cents comprised in Survey No.135/1 situated at Vengikal Village, Tiruvannamalai Taluk and District and from removing the crops standing in the aforesaid property by considering petitioner's representation dated 04.02.2020.

2. Heard Mr.R.Rajarajan, learned counsel appearing for the petitioner and Mr.S.Rajesh, learned Government Advocate appearing for the respondents 1 , 2 and 4.

3. The case of the petitioner is that the property comprised in Survey No.125/2, ad-measuring 72 Ares, the property comprised in Survey No.144/1, ad-measuring 22 Ares and the property comprised in Survey No.141/6B, ad-measuring 0.50 Ares, situated at Vengikal Village, Tiruvannamalai Taluk and District, belong to the petitioner and her husband. They are in joint and absolute possession and enjoyment of the said property. The property comprised in Survey Nos.135/52, 135/65 are situated on the northern side of the property comprised in Survey No.125/2. Originally, the property comprised in Survey No.135/52 was assigned in favour of one Unnamalai, on 30.07.2007. The said Unnamalai became the absolute owner of the subject property and after 12 years, she sold out the property in favour of the petitioner's son by the registered sale deed, dated 25.04.2019, registered vide Document No.3423 of 2019. Similarly, the property comprised in Survey No.135/65, ad-measuring 190 sq.ft was originally allotted to one Vennila and the same was subsequently sold out in favour of the petitioner by the registered sale deed, dated 07.10.2015, registered vide Document No.8029 of 2015.

4. While being so, the respondents without any right or title over the property and without any proposal for acquisition of the subject property, they interfered with the peaceful possession and enjoyment of the same. Further stated that, if



any encroachment is made by the petitioner/respondents, they are bound to follow the due process of law under the Land Encroachment Act, 1905.

5. A perusal of the counter filed by the fourth respondent revealed that the petitioner's family possessed patta to the land comprised in Survey No.125/2, to an extent of 0.72.0 hectare, the land comprised in Survey No.141/6B, to an extent of 0.00.5 hectare and the land comprised in Survey No.144/1, to an extent of 0.22.0 hectare. However, the petitioner encroached the property comprised in Survey No.135/1 to an extent of 10 cents by laying foundation to construct a house which is classified as Government Poramboke (un-assessed waste with rocky).

6. Considering the above, the respondents are restrained from interfering with the petitioner's peaceful possession and enjoyment of the land comprised in Survey No.125/2, to an extent of 0.72.0 hectare, the property comprised in Survey No.141/6B, to an extent of 0.00.5 hectare and the property comprised in Survey No.144/1, to an extent of 0.22.0 hectare, situated at Vengikal Village, Tiruvannamalai Taluk and District, only.

7. Insofar as the property comprised in Survey No.135/1, ad-measuring 10 cents is concerned, the respondents are directed to proceed under the Land Encroachment Act, 1905, as against the petitioner under due process of law as contemplated under the provisions.

8. With the above directions, this writ petition is disposed of. Consequently, connected Miscellaneous Petition is closed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Tiruvannamalai District,
Tiruvannamalai.



2. The Tahsildar,
Tiruvannamalai Taluk,
Tiruvannamalai District.

3. The President,
Vengikal Village Panchayat,
Vengikal,
Tiruvannamalai Taluk and District.

4. The Village Administrative Officer,
Vengikal Panchayat,
Vengikal,
Tiruvannamalai Taluk and District.

5. The Vice President,
Vengikal Village Panchayat,
Vengikal,
Tiruvannamalai Taluk and District.

+1cc to Mr.R.Rajarajan, Advocate, S.R.No.68788

W.P.NO.3709 OF 2020 AND
W.M.P.NO.4383 OF 2020

SJ(CO)
PBS/21/01/2022