

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2021

CORAM

THE HONOURABLE Mr. JUSTICE S.S.SUNDAR

W.P. No. 30428 of 2011

and

M.P.No.1 of 2011

S.Veluswamy alias V.S.Villivakkam Velu ... Petitioner

Vs

1.The District Collector,
Chennai District,
At Chennai.

2.The Tahsildar,
Purasaiwalkam - Perambur Taluk,
Chennai.

3.The Commissioner,
Corporation of Chennai,
Chennai - 600 003. ... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, forbearing the respondents either from vacating or demolishing the petitioner from the land situated at No.71, Konnur Village, Grama Natham, Purasaiwalkam - Perambur Taluk and Revenue Survey No.198/2 (Part) converted into Sub Division Survey No.198/2A (Part) and now as per new Town Survey Block No.3, T.S.No.37, Bearing Plot No.3, North Redhills Road, Konnur Village, Villigakkam, Chennai - 49, admeasuring about 3900 sq. ft. or thereabouts and bounded on the North by T.No.26 of Kathirvelu Vagaira and T.S.No.27 of Narayanaswamy Vagaira land with house, South by T.No.36 of Nalini Ammal property, East by T.S.No.32, 33 and 34 of Thiru.Veluswamy and Smt. Ponnmani Vagaira property and West by 10 feet lane leading to Valluvar Nagar and within Registration District of Chennai District and Sub Registration District of Konnur and Corporation Division No.63 except due process of law.

For Petitioner : Mr.R.Bharanidharan

For R1 and R2 : Ms.A.Madhumathi
Special Government Pleader.

For R3 : No Appearance

O R D E R

This writ petition has been filed for a Writ of Mandamus forbearing the respondents either from vacating or demolishing the property of the petitioner situated at No.71, Konnur Village, Grama Natham, Purasaiwalkam, Perambur Taluk comprising in Revenue Survey No.198/2 (part) converted into Sub Division Survey No.198/2A (part) and now as per new Town Survey Block No.3, T.S.No.37, Bearing Plot No.3, North Redhills Road, Konnur Village, Villigakkam, Chennai - 49, admeasuring about 3900 sq. ft.

2. It is the case of the petitioner that the wife of the petitioner purchased certain properties by virtue of two sale deeds dated 20.06.1994 and 05.09.1994. Subsequently, it was settled in the name of the petitioner on 20.08.2010. Thereafter, the petitioner purchased further property by a sale deed dated 24.03.2011 from one Mrs. Shanmugathai. It is stated that some third parties tried to disturb the petitioner's possession over the said property purchased by the petitioner and that the petitioner has filed a suit in O.S.No.3422 of 2011 on the file of the learned XIV Assistant Judge, City Civil Court at Chennai for the relief of permanent injunction and for consequential prayer.

3. It is now admitted before this Court that the suit has now been transferred before this Court and pending. The respondents though dispute the title of the petitioner, it is admitted that the petitioner is in physical possession of the property. The issue is whether the suit property, which is the subject matter of this writ petition, is a patta land classified as Grama Natham or poromboke land. The petitioner states that the petitioner's predecessor-in-interest was recognised by respondents as owner and that the property has been in possession and enjoyment of the petitioner and his predecessor-in-interest.

4. It is a specific case of the petitioner that the petitioner put up the residential construction fully and the predecessor-in-interest of the petitioner was also residing in the property. The case of the petitioner is that the property is classified as Grama Natham. A property which is classified as Grama Natham denotes that it is an area reserved in a village for the villagers' residence. It is now well settled that a property classified as Natham does not vest with the Government under any enactment. The question whether the petitioner is entitled to title or not, cannot be decided in this writ petition because the suit is also pending before this Court. The petitioner's claim is that he is entitled to the property as a

person in possession having regard to the classification of the land. As pointed out earlier, the petitioner is already enjoying the property as house-site and by putting up a construction. Since the suit is pending, normally this Court is expected to preserve the status quo pending lis between two parties. However, the respondents are not parties to the suit. They claim that the property is a Government poramboke land. Since the petitioner is in settled possession, he cannot be thrown out or evicted without following due process of law.

5. Hence, this writ petition is allowed and the respondents are directed not to evict the petitioner or demolish the superstructure in the disputed property otherwise than by due process of law. This Court has not expressed any opinion as to the title of the petitioner and it is also open to the petitioner to establish his title as against the respondents in an independent suit. No Costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

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To

1.The District Collector,
Chennai District,
At Chennai.

2.The Tahsildar,
Purasaiwalkam - Perambur Taluk,
Chennai.

3.The Commissioner,
Corporation of Chennai,
Chennai - 600 003.

+1 cc to government Pleader sr6319

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aa09/03/2021