

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2021

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THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.No.4742 of 2013

and

M.P.No.1 of 2013

D.Vijayakumar
S/o.J.Dhanasekaran ... Petitioner

Vs.

1.The District Collector,
Kancheepuram District,
Kancheepuram.

2.The District Revenue Officer,
Kancheepuram District,
Kancheepuram.

3.The Tahsildar,
Land Acquisition - Highways,
Sriperumbudur Taluk,
Kancheepuram District. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, forbearing the respondent authorities from acquiring the petitioner's residential buildings having ground and first floors, in Grama Natham Survey Nos.491/4 and 492/17, Vallakottai Village, Sriperumbudur Taluk, Kancheepuram District, without complying with the mandatory provision of Sections 15, 18, 19 of Tamil Nadu Highways Act, 2001 (Act 34 of 2002) for the purpose of expansion of Singaperumalkoil to Sriperumbudur Highways.

For Petitioner : Mr.S.Thankasivan

For Respondents : Mr.M.Elumalai
Additional Government Pleader

O R D E R

This writ petition is filed for issuing writ of mandamus forbearing the respondent authorities from acquiring the

petitioner's residential buildings having ground and first floors, in Grama Natham Survey Nos.491/4 and 492/17, Vallakottai Village, Sriperumbudur Taluk, Kancheepuram District, without complying with the mandatory provision of Sections 15, 18, 19 of Tamil Nadu Highways Act, 2001 (Act 34 of 2002) for the purpose of expansion of Singaperumalkoil to Sriperumbudur Highways.

2. The petitioner states in his affidavit filed in support of the writ petition that he is the absolute owner of the property namely land and building comprised in S.No.491/4 and 492/17. It is stated that the property is classified as Grama Natham, and that the petitioner is residing in his property along with his father, mother and family. The petitioner further states that the residential building now located in the property was constructed long back and that the property was assessed to property tax. The electricity service connection also stands in the name of the petitioner. It appears that an attempt was made by the respondent to acquire the property for expansion of road connecting Singaperumalkoil and Sriperambathur at Vallakottai. It is admitted before this Court that the property is classified as Grama Natham as per revenue records. It is the case of the petitioner that a dispute arose between the petitioner's ancestors and third parties, and that the title of petitioner's grandfather was upheld in the suit in O.S.No.820 of 1991 on the file of District Court, Thiruvallur.

3. A counter affidavit is filed by the 1st respondent.

4. From the admitted facts, it is seen that a notification for acquisition of certain lands was issued for the purpose of expanding the road connecting Singaperumalkoil and Sriperambathur. The notification issued for the acquisition of lands does not include the land for which the petitioner claims title. It is the case of the 1st respondent that the land is classified as Grama Natham cannot be treated as patta land and that the respondent need not acquire the land belonging to Government. It is admitted before this Court that the petitioner is in physical possession of the land in S.Nos.491/4 & 492/17 in Vallakottai village. It is the case of the respondents that the property is classified as Nathamporamboke. The word poramboke is normally added to Natham only to show that the property is not a patta land. When the property which is classified as Natham is enjoyed by an individual for his residential purpose, the Government cannot treat the same as poramboke as the property classified as Grama Natham does not vest with Government under any of the three enactments namely Act 26 of 1948, Tamil Nadu Estates (Abolition and Conversion Into Ryotwari) Act, Act 26 of 1963, Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act and Act 30 of 1963, Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act.

5. This Court has repeatedly held that the property classified as Grama Natham does not become the property of Government. When it is admitted before this Court that the property is in enjoyment of the petitioner for his residential purpose, this Court accepts the case of the petitioner that he is entitled to exercise his ownership or right over the property as against the Government or any other agencies of Government. Once the property is recognised as the property of the petitioner, the petitioner cannot be deprived of such land otherwise than by due process of law. Article 300 A of constitution gives protection to every individual to protect his possession and enjoyment. Though the State holding power of eminent domain, can acquire the land belonging to any private individual, if required for any public purpose, the respondents cannot claim any right over the property of the petitioner without initiating any proceedings for acquisition. Having regard to the facts admitted, the respondents cannot presume ownership in favour of Government and contend that the property can be taken even without resorting to any acquisition or other lawful means to get possession. Even an encroacher cannot be dispossessed without following due process. In such circumstances, this Court is unable to appreciate the stand taken by the respondents. The respondents can initiate any proceeding under the appropriate enactment to acquire the land belonging to the petitioner. It is open to them to do so and take possession in the manner prescribed in law after giving just compensation to the petitioner for the acquired land. Without following any procedure, this Court cannot permit the respondents to interfere with the enjoyment of the lands by the petitioner. As a result, the writ petition is allowed. However, it is open to the respondents to initiate any acquisition proceedings. In case, the respondents initiate acquisition proceedings, it can be done only after issuing notice to the petitioner, who is the owner of the property.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1.The District Collector,
Kancheepuram District,
Kancheepuram.

2.The District Revenue Officer,
Kancheepuram District,
Kancheepuram.

3.The Tahsildar,
Land Acquisition - Highways,
Sriperumbudur Taluk,
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