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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2021

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THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P.No. 20182 of 2020
and
W.M.P. No. 24931 of 2020

R.Balu,
S/o. Ramachandran

...Petitioner

Versus

1. The District Collector,
Tiruvannamalai District,
District Collector's Office,
Tiruvannamalai Dt.
2. The Tahsildar,
Chengam Taluk Office,
Chengam-606 701.
3. The Block Development Officer,
Chengam Block Development Office,
Chengam-606 701.
4. R.Ayyavu,
S/o. Ramasamy

...Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, to forbear the respondents herein, their men and subordinates or any other persons authorised by them from interfering with the peaceful possession of the petitioner's agriculture lands bearing Patta No.726 and 732 of an extent of 2.95 acres under S.No.90/6A, 2A2, 6A, 92/10B2 situated at Vinnavanoor Village, Chengam Taluk, Tiruvannamalai District without following the due process of law.

For Petitioner : Mr.A.Srinivasan

For Respondents : Mr.Yogesh Kannadasan,
Govt. Advocate



O R D E R

(The case has been heard through video conference)

This Writ Petition has been filed seeking a direction forbearing the respondents from interfering with the peaceful possession of petitioner's agriculture lands bearing Patta No.726 and 732 under S.No.90/6A, 2A2, 6A, 92/10B2 situated at Vinnavanoor Village, Chengam Taluk, Thiruvannamalai District, without following due process of law.

2. According to the petitioner, he is the patta holder of agriculture lands in Survey Nos 90/6A, 2A2, 6A and 92/10B2 and the property has been settled in his favour by his father one Ramachandran, now, he is in possession and enjoyment of the same. Thereafter, all of sudden, on 12.09.2020, the 2nd Respondent Tahsildar has issued a summons to the petitioner directing him to appear for enquiry stating that the petitioner has encroached pathway in some survey numbers, which belongs to Village Panchayat. The petitioner has appeared for enquiry and submitted that, he is owner of the property, and there is no road or pathway available in that survey numbers. Thereafter, without passing any orders, the respondents are taking steps to evict the petitioner. Hence, the present Writ Petition has been filed by the petitioner.

3. The 2nd respondent Tahsildar has filed a counter affidavit stating that, the petitioner and some other persons have encroached a cart track, destroyed the same and doing cultivation, thereby causing hindrance to agriculturists and other public using road. So far as the petitioner is concerned, he has encroached cart track in Survey Nos. 90/1, 90/2A and 90/2D. During enquiry, the petitioner had appeared and stated that if the cart track is properly surveyed and identified, he will restore the cart track, and also accepted to remove the encroachment. Now, the action is being taken to survey and mark cart track as per revenue records. In the meantime, the present Writ Petition has been filed by the petitioner.

4. Mr.A.Srinivasan, learned counsel appearing for petitioner would submit that it is not only petitioner, so many persons are in occupation in the alleged cart track, but leaving others, the petitioner alone targeted by respondents and they are taking steps to evict the petitioner only. The learned counsel would also submit that, if the property is surveyed, and the cart track properly identified by the authorities, he has no objection to restore the cart track. That apart, he would also submit that the petitioner alone should not be singled out by the respondents, all the other encroachers also required to be evicted, .



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5. Per contra, learned Government Advocate appearing for respondents would submit that the petitioner and other landowners have encroached cart track, which was meant for usage of general public. Subsequently, they have destroyed it and cultivating the same. In the said circumstances, enquiry was conducted, in which, the petitioner has appeared and he has also agreed to restore cart track, if it is properly surveyed. Before survey is being conducted, the petitioner has rushed to the court and filed the present Writ Petition. The learned counsel would also submit that the 2nd respondent will survey the property and identify cart track from Beemanandal to Vinnavanoor village.

6. I have considered rival submissions submitted by learned counsel appearing for petitioner as well as learned Government Advocate appearing for respondents 1 to 3 and perused the records.

7. Considering the fact that the petitioner himself appeared before the 2nd respondent and agreed to restore cart track, if it is properly surveyed and identified. The main grievance of the petitioner is that he was alone targeted and no action has been taken against other encroachers. In the said circumstances, the respondents 1 to 3 are directed to survey the property and identify cart track from Vinnavanoor to Beemananthal village as per the revenue records after issuing notice to all the alleged encroachers. After identifying cart track, the respondents are directed to take steps to restore cart track. The above exercise shall be completed within a period of twelve weeks from the date of receipt of copy of this order. Accordingly, this Writ Petition stands disposed of. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

rpp

To

1. The District Collector,
Tiruvannamalai District,
District Collector's Office,
Tiruvannamalai Dt.



2. The Tahsildar,
Chengam Taluk Office,
Chengam-606 701.

3. The Block Development Officer,
Chengam Block Development Office,
Chengam-606 701.

+1cc to the Government Pleader, S.R.No.28737/21

W.P.No. 20182 of 2020

JPL(CO)
RGA(09/08/2021)