

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 31.03.2021

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

W.P.No.20416 of 2020

A.Singaravelu

..Petitioner

Versus

1. The District Collector,
Ariyalur District,
Collectorate Complex,
Ariyalur 621709.
2. The Assistant Commissioner of
Hindu Religious and Charitable Endowment,
Collectorate Complex,
Ariyalur 621709,
Ariyalur District.
3. The Executive Officer,
HR & CE, and Trustee of Lakshmi Narayanaswamy
Temple of Chithudayar Village,
Perumal Koil Premises,
Ariyalur Town, Ariyalur District.
4. The Superintendent of Police,
Ariyalur District, Ariyalur.
5. S.Jaganathan
6. A.Selvi

7. P.Muthu

..Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents 1 to 4, to remove the encroachments made by the respondents 5, 6 and 7 in S.F.No.273/16 which belong to Lakshmi Narayanaswamy Temple by measuring the field as per the records and to take appropriate legal action against the respondents 5, 6 and 7 as per the representation of the petitioner dated 20.05.2020.

For Petitioner : Mr.A.Arulmozhi
For RR 1 and 4 : Mr.S.Kamalesh Kannan
Government Advocate
For RR 2 : Mr.G.N.Jeyantheshwari
For RR3 : Mr.K.Ashok Kumar
For RR 5 to 7 : Mr.S.Kamadevan

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.]

The petitioner claims to be a retired Government Servant and a native of Chithudayar Village and carrying on agricultural work right from the date of his retirement from November 2015. The petitioner claims to be the owner of the patta lands, bearing patta no.583, in respect of land in S.F.Nos.253/4B etc., and that apart, he is also cultivating wet lands comprised in S.F.Nos.273/9, 273/13 and 273/16, belong to the Lakshmi Narayanaswamy Temple. It is the specific case of the petitioner that respondents 5 and 6 who are the owners of the patta lands, adjacent to the land in S.F.No.273/16, obtained patta fraudulently in respect of the said Temple land in S.F.No.273/12 and though the said fact has been brought to the knowledge of the officials concerned, they have not taken action and therefore, the petitioner has constrained to approach this Court by filing W.P.No.27840 of 2018, praying for issuance of Writ of Mandamus, praying for a direction to include the land comprise in S.F.No.273/12 in patta no.19 in the name of the 3rd respondent Temple.

2. It is also the specific case of the petitioner that the 5th respondent as well as the 7th respondent had encroached upon certain portion of land in S.F.No.273/16 and though the said land was having measurement of 4.5 ares originally, it got reduced to 2 ares, on account of the said encroachment.

3. The petitioner in this regard has also submitted a detailed representation dated 20.05.2020, to respondents 1 to 4 and despite receipt and acknowledgement, the official respondents concerned including the 3rd respondent did not evince any interest for removal of encroachment caused by the respondents 5 to 7 upon the land in S.F.No.273/16, situate at Manappathur Village, Sendurai Taluk, Ariyalur District and therefore, he is constrained to approach this Court by filing this Writ Petition.

4. The Writ Petition was listed for hearing for admission on 06.01.2021 and on that day, this Court has ordered Notice. When the matter is listed today, the 3rd respondent has filed the counter affidavit.

5. The learned counsel appearing for the petitioner has drawn the attention of this Court to the contents of the counter affidavit and would submit that though the status of the petitioner as a cultivating tenant of the temple land has been disputed by the 3rd respondent, the fact remains that he continues to pay the lease amount, which is being accepted by the temple authorities and that apart, no proceedings whatsoever has been taken to evict him from the land in question and further points out that though it is the statement of the 3rd respondent that after measurement of the land in S.F.No.273/16, there were no encroachments, the fact remains that the copy of the survey and inspection report have not been furnished and hence prays for appropriate orders for removal of encroachment.

6. Per contra, Mr.K.Ashok Kumar, learned counsel appearing for the 3rd respondent has drawn the attention of this Court to the counter affidavit of the 3rd respondent dated 19.03.2021, and would submit that the mother of the writ petitioner was a cultivating tenant in S.F.No.273/16 till 2010 and thereafter, the petitioner without any permission / authority from the temple, continued to cultivate the land and the lease amount was paid in the name of his mother upto 2015 and subsequently in the year 2016 onwards, the lease amount came to be recorded in the name of the petitioner and it is also the submission of the learned counsel appearing for the 3rd respondent that the land in S.F.No.273/12 does not belong to the said Temple and in this regard, W.P.No.27840 of 2018, is also pending and the survey and measure of the land in S.F.No.273/16, was also done and there are no encroachment upon the said land.

7. The learned counsel appearing for the 3rd respondent would further submit that since the petitioner is not in a lawful occupant, it is not open to him to speak about the same against the private respondents in the form of alleged encroachment and prays for dismissal of this Writ Petition with exemplary costs.

8. This Court heard the submissions of the learned counsel appearing for the 2nd respondent also.

9. In the light of the stand taken by the 3rd respondent that the land in S.F.No.273/16 were measured, marked and there are no encroachments on the said Temple lands, no further orders are required in this Writ Petition and in the light of the stand taken by the 3rd respondent in paragraph no.5 of the counter

affidavit, it is always open to them to proceed against the petitioner in accordance with law, to evict him from the land in question, in which his mother was a cultivating tenant.

10. The Writ Petition stands disposed of with the above observations. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Ariyalur District,
Collectorate Complex,
Ariyalur 621709.
2. The Assistant Commissioner of
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3. The Executive Officer,
HR & CE, and Trustee of Lakshmi Narayanaswamy
Temple of Chithudayar Village,
Perumal Koil Premises,
Ariyalur Town, Ariyalur District.
4. The Superintendent of Police,
Ariyalur District, Ariyalur.

+1cc to Mr.K.Ashok Kumar, Advocate, S.R.No.21258
+1cc to M/s.Arul Mozhi, Advocate, S.R.No.21265
+1cc to the Government Pleader, S.R.No.21413
+1cc to the Government Pleader(HR & CE), S.R.No.22017

W.P.No.20416 of 2020

CP(CO)
KKV/02/06/2021