



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.06.2021

CORAM

THE HONOURABLE MR.JUSTICE T. S. SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P. (MD)No.5534 of 2020

and W.M.P. (MD) Nos.4836, 4837 and 10707 of 2020

1.K.Dhanushkodi

2.K.Gnanasekaran

... Petitioners

Vs.

1.The District Collector,
Theni District,
Theni.

2.The Revenue Divisional Officer,
Uthamapalayam Revenue Divisional,
Uthamapalayam,
Theni District.

3.The Tahsildar,
Bodinayakanur Taluk,
Theni District.

4.The Revenue Inspector,
Kodangipatti,
Theni District.

5.S.Jeyakumar

6.S.Ananthapandi

7.Sevathiveeran

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for the records related to the impugned proceedings of the Tahsildar, Bodinayakanur dated 16.08.2019 and subsequent proceedings dated 29.08.2019 in Na.Ka.No.1887/2019/A5 and the consequential communication issued by the Revenue Inspector, Kodangipatti, dated 28.02.2020 in Na.Ka.No.1887/2019/A7 and quash them.

For Petitioner : Mr.N.Dilipkumar
for M/s.Y.Jagadeesh

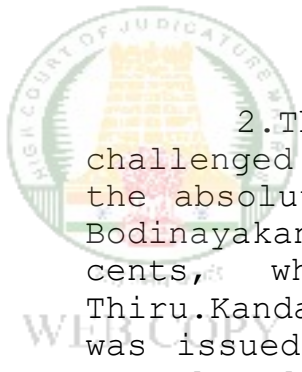
For Respondent Nos.1 to 4 : Mr.R.Baskaran
Standing Counsel for Government

For Respondent Nos.5 to 7 : Mr.M.Prabhu

ORDER

(Order of the Court was made by T. S. SIVAGNANAM, J.)

The petitioners have filed this Writ Petition, challenging the notice issued by the third respondent under Section 7 of the Tamil Nadu Land Encroachment Act, 1905.



2.The principal ground on which the petitioners have challenged the said notice is by contending that the petitioners are the absolute owners of the land in S.No.351/6, Uppukottai Village, Bodinayakanur Taluk, Theni District, measuring an extent of 75.75 cents, which stood in the name of petitioners' father Thiru.Kandasamy Chettiar. The petitioners further state that patta was issued for 66.5 cents and the remaining 9.25 cents has been wrongly classed as *Anatheenam*. According to the petitioners, this mistake has crept in during UDR and the revenue officials have assigned separate sub-division for 66.5 cents and 9.25 cents, which according to the petitioners is also their patta land, which has been annexed with S.No.351/7 and the entire extent in S.No.351/7 has been classified as *Anatheenam*. The petitioners would further state that to rectify the mistake during UDR, the petitioners have filed an application to the District Revenue Officer and the application is pending. In the meantime, since there was disturbance to the petitioners' possession by respondent Nos.5 to 7, the petitioners have filed a suit in O.S.No.240 of 2019 on 09.09.2019 before the Sub Court, Theni, wherein the official respondents are also added as defendants and the prayer sought for therein was for declaration and perpetual injunction and the suit is pending. At the time, when the Writ Petition was entertained, an order or interim stay was granted.

3.Thus, considering the facts of the case and the fact that the petitioners have filed application before the District Revenue Officer for rectification of the alleged mistake during the UDR, we are of the view that the said petition can be considered and subject to the outcome of the proceedings, the Tahsildar can proceed in accordance with law. Though the petitioners in the affidavit filed in support of the Writ Petition would state that a petition has been filed before the District Revenue Officer for rectification of mistake, the date of filing such application has not been mentioned, but a copy the same has been filed by the petitioners in page No.41 of the typed set, which has been presented by the counsel for the petitioners.

4.In the light of the above, we direct the petitioners to file a fresh representation along with the copy of the earlier appeal petition before the District Revenue Officer, Theni, who shall take it on file as appeal petition and issue notice to the petitioners and respondent Nos.5 to 7 and other persons, who may have interest in the property, conduct enquiry, examine the case of the petitioners and pass a speaking order on merits and accordance with law within a period of twelve weeks from the date of receipt of a copy of the representation. Since the petitioners had the benefit of interim order in the Writ Petition, further proceedings issued by the Tahsildar, Bodinayakanur Taluk, under Sections 6 and 7 of the Tamil Nadu Land Encroachment Act, 1905, shall be kept in abeyance. Since the District Revenue Officer, Theni District is not a party to the Writ Petition, the Registry is directed to communicate a copy of



the order to the District Revenue Officer, Theni District, Theni.

5.The Writ Petition stands disposed of with the above directions. No costs. Consequently, connected Miscellaneous Petitions are closed.

WEB COPY

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

sj

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The District Collector,
Theni District,
Theni.
- 2.The Revenue Divisional Officer,
Uthamapalayam Revenue Divisional,
Uthamapalayam,
Theni District.
- 3.The Tahsildar,
Bodinayakanur Taluk,
Theni District.
- 4.The Revenue Inspector,
Kodangipatti,
Theni District.

Copy to
The District Revenue Officer,
Theni District,
Theni.

+1 CC to M/s.Y.JAGADEESH, Advocate (SR-20489[F] dated 29/06/2021)
W.P. (MD)No.5534 of 2020
28.06.2021