



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.11.2021

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA
and
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P. (MD).No.17798 of 2021

Sivalingam

.. Petitioner

Vs.

1.The District Collector,
Sivagangai District,
Sivagangai.

2.The District Revenue Officer,
Sivagangai.

3.The Revenue Divisional Officer,
Sivagangai Taluk,
Sivagangai District.

4.The Tahsildar,
Sivagangai Taluk,
Sivagangai.

5.A.Shanthi

.. Respondents

Prayer:Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Mandamus, directing the respondents 1 to 4 to remove the unauthorized construction made by the 5th respondent in S.No.294/1 & 297/2 in Thamarakki Burma Colony, Thamarakki(west) Village, Sivagangai (Taluk & District).

For Petitioner : Mr.S.Satheesh Kumar

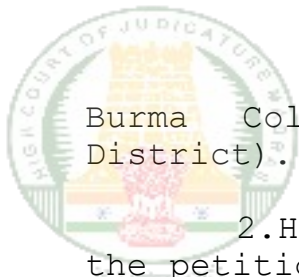
For R1 to R4 : Mr.P.Subbaraj
Government Advocate

For R5 : Mr.Hajamohideen

ORDER

(Order of the Court was made by PUSHPA SATHYANARAYANA, J.,)

This Writ Petition is filed for the issuance of a Writ of Mandamus, seeking to remove the alleged unauthorized construction made by the fifth respondent in S.Nos.294/1 & 297/2 in Thamarakki



Burma Colony, Thamarakki(west) Village, Sivagangai (Taluk & District).

2.Heard Mr.S.Satheesh Kumar, learned counsel appearing for the petitioner, Mr.P.Subbaraj, learned Government Advocate appearing for the respondents 1 to 4 and Mr.Haja Mohideen, learned counsel appearing for the fifth respondent.

3.Upon instructions, the learned Government Advocate has produced an order passed in W.P.(MD)No.18671 of 2015 dated 13.10.2015, in which, this Court had directed the Tahsildar to consider the representation of the fourth respondent by surveying the land measuring to an extent of 0.04.0 Ares in S.No.297/36. Yet another document produced by the learned Government Advocate was the proceedings of the Revenue Divisional Officer, Sivagangai, dated 23.02.2009, in which, it is stated that the fifth respondent had applied for assignment of land site, based on which, considering her poor condition, in Survey No.297/36 an extent of 0.04.0 ares of land was assigned to her, by proceedings of the Tahsildar, Sivagangai in D.A.No.413/95 dated 28.05.1986. Pursuant to the said proceedings, the complaint given by the petitioner dated 05.05.2008 was dismissed.

4.As early as in the year 2009, the assignment granted in favour of the fifth respondent was known to the writ petitioner. Despite the same, the above writ petition has been filed as if it is an encroachment and for removal of the same. Yet another factor is that the said fifth respondent has put up a pakka construction in the land assigned in her favour. The petitioner, who is also living in the same area, had the knowledge about the same and acquaintance to the act of construction. Having lost his right to go before the Civil Court, the petitioner has sought to file the above writ petition in vain. There is no element of public interest in this writ petition, but it is stated that the writ petition is filed for removal of encroachment. Having knowledge about the assignment made in favour of the fifth respondent in the year 1986, the above writ petition is filed by the writ petitioner, which is the waste of the precious time of this Court, therefore, this Writ Petition is dismissed with a cost of Rs.5,000/-(Rupees Five Thousand only). The petitioner is directed to pay the above said amount to the *Hon'ble Chief Justice relief fund*, within a period of two weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



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.

WEB COPY

To

- 1.The District Collector,
Sivagangai District,
Sivagangai.
- 2.The District Revenue Officer,
Sivagangai.
- 3.The Revenue Divisional Officer,
Sivagangai Taluk,
Sivagangai District.
- 4.The Tahsildar,
Sivagangai Taluk,
Sivagangai.

Copy to

The Section Officer, Accounts Section,
Madurai Bench of Madras High Court, Madurai

+1 CC to M/s.SPL.GP (SR-34254[F] dated 12/11/2021)

W.P. (MD) .No.17798 of 2021
11.11.2021

SRK(CO)
KB(29.11.2021) 3P 7C