



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

AND

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

W.P(MD)No.18301 of 2021

and

W.M.P(MD)No.15134 of 2021

WEB COPY

Boominathan

... Petitioner

Vs.

1.The Assistant Director (Panchayat),
Village Panchayat Rural Development,
Madurai District,
Madurai.

2.The Commissioner,
Kottampatti Panchayat Union,
Kottampatti,
Melur Taluk,
Madurai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records and to quash the order of the second respondent in Na.Ka.No.1398/2021/A3 dated 21.09.2021 as arbitrary.

For Petitioner : Mr.K.Baalasundharam

For R - 1 : Mr.B.Saravanan
Government Advocate

For R - 2 : Mr.P.Thilak Kumar
Government Pleader

ORDER

(Order of the Court was made by **M.DURAI SWAMY, J.**)

The petitioner has filed the above Writ Petition to issue a Writ of Certiorari, to quash the order of the second respondent, dated 21.09.2021.



2.The petitioner is an encroacher in respect of Survey No.263 of Kottampatti Village, Melur Taluk, Madurai District. Earlier, the petitioner filed a Writ Petition in W.P(MD)No.15661 of 2019, challenging the impugned notice dated 03.07.2019 passed by the respondent therein and the Division Bench of this Court, by order dated 30.07.2019, disposed of the Writ Petition with a direction to the Commissioner, Kottampatti Panchayat Union to pass final orders, after taking into consideration the representation dated 15.02.2019 given by the petitioner and till such time directed the Commissioner to maintain status quo. Thereafter, the petitioner's representation was considered by the second respondent and a final order was passed on 21.09.2021, which is impugned in the present Writ Petition.

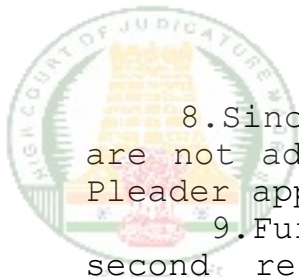
3.On a perusal of the order, dated 21.09.2021, it could be seen that the land in question was surveyed by the authorities and after considering the representation given by the petitioner, the second respondent came to the conclusion that the petitioner is an encroacher of the land in Survey No.263. The second respondent has passed a detailed order on 21.09.2021 categorically coming to the conclusion that the petitioner had encroached the road belonging to the Panchayat. Further, in the affidavit filed in support of the Writ Petition, the petitioner himself has stated that Survey No.263 of Kottampatti Village was classified as a Village Panchayat road in revenue records, however, the entire portion of the said S.F.No.263 is not used as a road. Further, he has stated that a portion of the land in S.F.No.263 was leased out to one Chellam and he put up construction in the said land belonging to the Panchayat. According to the petitioner, he purchased the said property from the aforesaid Chellam. Even from the averments stated in the affidavit filed in support of the Writ Petition, it is clear that the land was classified as a Village Panchayat road and that he is in possession of the said land. The second respondent has stated that the land in occupation of the petitioner is a Panchayat road and that he is not entitled to remain in possession of the same.

4.Mr.K.Baalasundharam, learned counsel appearing for the petitioner submitted that the land in question is a Natham land and the second respondent cannot evict the petitioner from the said land. In support of his contention, the learned counsel relied upon sub-division statement in respect of S.F.No.263/1 and S.F.No.263/2.

5.On a perusal of the same, it could be seen that the said statement was issued by the Divisional Deputy Inspector, Survey Department, Melur.

6.When the revenue authorities themselves stated that the land in question is a Panchayat road, which is also confirmed by the petitioner in the affidavit filed in support of the Writ Petition, the document relied upon by the learned counsel appearing for the petitioner has no relevance.

7.Mr.P.Thilak Kumar, learned Government Pleader appearing for the second respondent submitted that the petitioner was a former President of the Panchayat Union for the period 1996-2001. Therefore, he manipulated the document in his favour.



8.Since there is no pleadings with regard to the said fact, we are not adverting to the submission made by the learned Government Pleader appearing for the second respondent with regard to the same.

9.Further, the learned Government Pleader appearing for the second respondent submitted that out of 23 encroachers, the respondents have already removed 22 encroachers, except the petitioner.

10.In any event, the second respondent has passed a detailed order finding that the petitioner is an encroacher.

11.In these circumstances, we are not inclined to interfere with the order passed by the second respondent. The Writ Petition is devoid of merits and the same is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CRL)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Indu/ps

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 Assistant Director (Panchayat),
Village Panchayat Rural Development,
Madurai District,Madurai.

2.The Commissioner,
Kottampatti Panchayat Union,
Kottampatti,
Melur Taluk,
Madurai District.

+1 CC to M/s.SPL.GP (SR-31965[F] dated 11/10/2021)

W.P (MD)No.18301 of 2021
07.10.2021

MGJ(21.10.2021) 3P 4C