



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.11.2021

CORAM :

WEB COPY

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

W.P (MD)No.20013 of 2021

and

WMP (MD)No.16707 of 2021

Rajappa

... Petitioner

vs.

1) The District Collector,
Pudukkottai District,
Pudukkottai.

2) The Tahsildar,
Viralimalai Taluk,
Pudukkottai District.

3) The Block Development Officer,
Village Panchayat Union,
Viralimalai,
Pudukkottai District.

4) Chinnakkannu

... Respondents

Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, calling for the records relating to the order of the 3rd respondent herein, Block Development Officer, (Village Panchayats) Panchayat Union Viralimalai impugned order dated 20.10.2021 vide Na.Ka.Thee3/2782/2021 and quash the same as arbitrary and illegal.

For Petitioner : Mr.K.Baalasundharam

For R1 & R2 : Mr.B.Saravanan
Government Advocate

For R3 : Mr.P.Thilakkumar
Government Pleader

For R4 : Miss.M.Aruna Rani



ORDER

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

The petitioner has filed the writ petition, challenging the impugned order issued by the Block Development Officer, 3rd respondent in Na.Ka.Thee3/2782/2021, dated 20.10.2021.

2. The said order is a notice, calling upon the petitioner to remove the encroachments before 25.10.2021, failing which, encroachments will be removed by the authorities. The said notice is issued, pursuant to the order passed by this Court, in W.P(MD) No.10689 of 2021.

3. The case of the petitioner is that he had been assigned patta for the house-site, in the year 2007, by the Tahsildar, Iluppur, in Patta No.217/1416, dated .06.2007, for an extent of 0.00.63 hectares in Survey No.6/2 of Meenaveli Village, Iluppur Taluk, Pudukkottai District. At the time of assignment, Survey No.6 was sub-divided and Survey No.6/2 was assigned in the name of the petitioner's wife. The copy of the assignment order and copy of the FMB for Survey No.6/2, are all enclosed by the petitioner. The petitioner also has produced the house-tax receipts for his house, including the electricity card in service connection No.167-031-454, copy of new and old family cards, aadhar card of the petitioner and his wife and voter ID which are also seem to be in Survey No.6/2. FMB in Survey No.6 has been furnished, as has been issued by the Village Administrative Officer, Meenaveli Village.

4. From the above, it can be seen that Alaganchetty Oorani is situated in Survey No.6/5. The impugned notice states that the said Oorani has been encroached upon by the individuals, blocking the free flow of water.

5. We are aghast to know that when the respondents themselves have sub-divided Survey No.6 and assigned Survey No.6/2 to the petitioner in the year 2007, after which patta and above-stated documents relating to the petitioner's address have been issued by the respective authorities, simply quoting the survey number as '6', the eviction notice has been issued. Only Survey No.6/2, to which, the petitioner is a pattadhar, whereas the impugned notice has simply put as Survey No.6, which would include all the sub-divisions including the sub-divisions 6/1, 6/2, 6/3, 6/4 and 6/5 etc.

6. It is very unfortunate that before issuing the notice, the 3rd respondent has not even made a survey, but has stated approximate encroachment as 00.3.30 square meters. The Village Administrative Officer of Meenaveli Village has also given a certificate that the writ petitioner has been residing in Survey No.6/2, for more than 25 years, by paying house-tax etc.



7. From the impugned notice issued, it is seen that the said action itself, is taken only pursuant to the direction given by this Court in a writ petition, however, that would not mean that without even a minimum verification or survey taken, the authorities can issue such kind of encroachment notice to those people living there, based on the assignment.

8. In the light of the above, the impugned notice issued by the 3rd respondent cannot be sustained and the same is set aside and the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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To

- 1) The District Collector,
Pudukkottai District,
Pudukkottai.
- 2) The Tahsildar,
Viralimalai Taluk,
Pudukkottai District.
- 3) The Block Development Officer,
Village Panchayat Union,
Viralimalai,
Pudukkottai District.

+1 CC to M/s.SPL GP (SR-36714[F] dated 01/12/2021)

ORDER MADE IN
W.P(MD)No.20013 of 2021
DATED : 30.11.2021

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NSN(CO)
TR(09.12.2021) 3P 5C