



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.12.2021

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THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P (MD)No.21396 of 2021

and

W.M.P. (MD)No.17964 of 2021

WEB COPY

V.Mayandi

... Petitioner

Vs.

1.The District Collector,
Office of the District Collector,
Theni, Theni District.

2.The Tahsildar,
Periyakulam Taluk Office,
Periyakulam, Theni District.

3.The Executive Officer,
Vadugapatti Town Panchayat,
Vadugappatti,
Theni District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, direct the first respondent to conduct enquiry and pass orders on the petitioner's representation dated 27.10.2021 for issuing patta to the petitioner enjoyment agricultural land situated in survey number 1043 at Vadugappatti Town Panchayat, Periyakulam Taluk, Theni District.

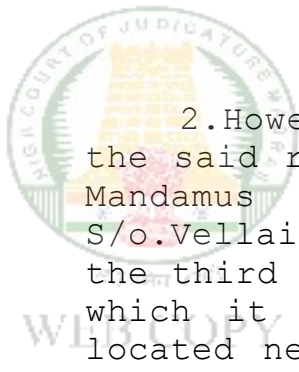
For Petitioner : Mr.Gopalakrishnan T.C.,

For R1 and R2 : Mr.N.Satheesh Kumar
Additional Government Pleader

For R3 : Mr.P.Subbaraj,
Special Government Pleader

ORDER

This petition has been filed in the nature of Writ of Mandamus, seeking direction to the first respondent to consider the representation dated 27.10.2021 made by the petitioner herein, seeking patta for the agricultural land of the petitioner in Survey No.1043 at Vadugappatti Town Panchayat, Periyakulam Taluk, Theni District.

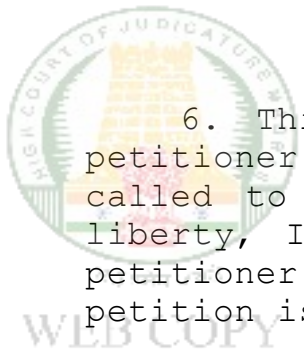


2. However, it has been brought to my notice that subsequent to the said representation dated 27.10.2021, on the basis of which a Mandamus is sought, the petitioner herein V.Mayandi, S/o.Vellaichamy had addressed a letter to the Executive Officer / the third respondent on 29.10.2021, which had been received and in which it has been stated that the land in Survey No.4243, is located near the Kattaiyan Oorani. It is also stated that from the Oorani, the water flows into 7cents of land which is occupied by the petitioner herein. It is also stated that the petitioner has been in possession of the said land. It is a vast area in which there is also a public pathway and there are also coconut plantations.

3. There are two representations, one dated 27.10.2021 and a further representation which has not been disclosed in the affidavit filed by the petitioner, but dated 29.10.2021 and which had been given by the petitioner herein, consequent to the notice dated 05.10.2021, issued by the third respondent. In the said notice dated 05.10.2021, a copy of which has been filed along with the writ petition, it has been very specifically stated that a portion of the land in possession of the petitioner, nearly 1/4th portion has been encroached and that the said land is a Oorani or waterbody. Therefore, the notice had been issued on 05.10.2021 by the third respondent to remove the encroachment. The petitioner has therefore given two separate representations, one on 27.01.2021 which forms part of the typed set of papers and the other one of 29.10.2021 which has been suppressed from the Court.

4. The representations dated 27.10.2021 and 29.10.2021 are totally different. They are two separate documents. The petitioner has admitted that he is in possession of Oorani and the third respondent has also stated that the 1/4th of the land occupied by the petitioner are Oorani. When a specific statement has been made by the third respondent that the land in possession of the petitioner are Oorani, then that particular statement should be questioned by the petitioner by filing a Writ of Certiorarified Mandamus. A Mandamus will not lie. The petitioner is at liberty to file a Writ of Certiorarified Mandamus, challenging the conclusion of the third respondent, that the lands have been encroached by him. Therefore, a Mandamus can never lie.

5. I am really surprised that the learned Counsel for the petitioner, though given sufficient time for arguments, in the interest of his client and in his own interest, had interfered during dictating the orders. The result is the same. A Mandamus will not lie. The petitioner may take up necessary steps in that regard.



6. This Writ Petition is dismissed, giving liberty to the petitioner to question that particular order, wherein he had been called to remove the said encroachments. Except granting that liberty, I am not inclined to grant any order in favour of the petitioner. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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,
Office of the District Collector,
Theni, Theni District.
- 2.The Tahsildar,
Periyakulam Taluk Office,
Periyakulam, Theni District.
- 3.The Executive Officer,
Vadugapatti Town Panchayat,
Vadugappatti,
Theni District.

+1 CC to M/s.SPL GP (SR-37403[F] dated 06/12/2021)

W. P (MD) No. 21396 of 2021
03.12.2021

RK(17/12/2021) 3P 5C