



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.02.2021

CORAM

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P. (MD) No.20453 of 2018

WEB COPY

N.Vellaichamy

.. Petitioner

Vs

1.The Secretary to Government,
Revenue Department,
Secretariat, Fort.St.George,
Chennai.

2.The District Collector,
Sivagangai District,
Sivagangai.

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

4.The Tahsildar,
Thiruppathur Taluk,
Sivagangai District.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents to pay compensation of Rs.3,00,000 to the petitioner and directing the 1st respondent to take necessary action against the erring officials for illegal demolition of petitioner's compound wall situated in Survey No.697/1 of Vanchinipatti Village, A.Thekkur Village Group, Thiruppathur Taluk., Sivagangai District, by considering the petitioner's representation dated 26.06.2018.

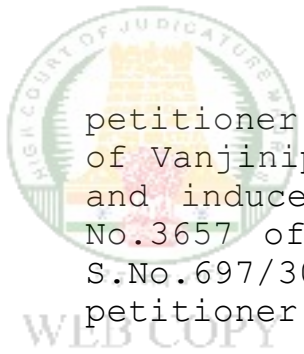
For Petitioner : Mr.V.Kannan

For Respondents : Mr.C.Ramesh

Special Government Pleader

ORDER

The case of the petitioner is that the property in S.No.397/1, to an extent of 1.88 acres situated at Vanchinipatti Village, A.Thekkur Village Group, Thiruppathur Taluk, Sivagangai District, was purchased by his father, Natarajan through a valuable consideration and the same was duly registered on 23.03.1970 before the Sub Registrar, Thirupathur. After the demise of the petitioner's father, a joint patta was issued to the



petitioner's family members. One Kannan, who is a former President of Vanjinipatti Village Panchayat, misused his political influence and induced another person to file a writ petition in W.P.(MD) No.3657 of 2014 before this Court to remove the encroachment in S.No.697/30 of the same village with an intention to harm the petitioner's interest.

2.This Court passed an order, directing the Tahsildar, Thiruppathur Taluk, Sivagangai District, to consider the representation of the petitioner therein within the time stipulated therein. Thereafter, the 4th respondent had sent a notice to the petitioner under Section 6 of Tamil Nadu Land Encroachment Act, on 23.06.2015 as to why an action should not be taken against him for demolition of the compound wall put up by him. As against the proposed action of the 4th respondent, the petitioner filed a writ petition in W.P.(MD) No.10610 of 2015 before this Court. However, the same was dismissed on 05.08.2016. As against the same, the petitioner preferred a writ appeal in W.A.(MD) No.982 of 2015 and the same was also dismissed on 02.02.2016.

3.The petitioner having left with no other option has filed a suit in O.S.No.34 of 2015 on the file of the District Munsif Court, Thiruppathur, seeking permanent injunction and the same is, according to the petitioner, pending. While so, on 01.02.2016, the 5th respondent demolished the 100 years old compound wall situated in S.No.397/1, without following the due process of law and later, the valuable iron gate worth about more than a lakh of rupees was also taken away.

4.In the said circumstances, the petitioner is before this Court seeking compensation of Rs.3 lakhs and for a direction to the 1st respondent to take action as against the officials for their wrongful action taken as against the interest of the petitioner.

5.In response to the notice issued by this Court in this writ petition, Mr.C.Ramesh, learned Special Government Pleader entered appearance on behalf of the respondents and a counter affidavit has been filed before this Court on behalf of the 4th respondent. In the counter affidavit, it had been clearly stated as under:-

"4.I submit that, it is an admitted fact that a writ petition came to be filed before this Hon'ble Court in W.P.(MD) No.3657 of 2014 with the prayer to remove the encroachment in and around the said area as per law. After hearing both sides, the Hon'ble High Court directed the Respondents / Revenue officials to disposed of the representation within 12 weeks. As per



the direction of this Hon'ble Court, our office surveyed the poramboke lands so as to find out the encroachment upon the same. As a result of inspection it was found that the petitioner encroached the poramboke land upon in S.No.697/30 to extent of 43 sq.mt., by constructing a compound wall.

5.It is submitted that as against the order of Writ Petition passed in W.P.(MD) No.3647 of 2015, the petitioner preferred Writ Appeal in W.A.(MD) No.982 of 2015. Simultaneously he filed a Civil Suit in O.S.No.34/2015 for permanent injunction. But the petitioner has not able to satisfy even to a minimal extent for getting interim order.

6.It is submitted that the respondent with an endeavour to given opportunity to the petitioner have followed the procedure contemplated under the provisions of Tamil Nadu Land Encroachment Act, 1905, Notice under Section-5 came to be issued on 11.03.2015 and Notice u/s 7 was issued on 26.03.2015 and finally Notice u/s 6 came to issued on 23.06.2015. Hence, the petitioner cannot take a plea that the respondent have not followed due procedure before embarking upon the Removal of encroachment.

7.It is submitted that after giving all the opportunities to the petitioner, the respondent demolished the encroached compound wall so as to retrieve back the government land."

6.From the above averments, it is clear that the petitioner had constructed a compound wall in the Government Poramboke land and while demolishing the same, proper procedure has been followed by the authorities concerned. Therefore, the petitioner cannot have any legitimate grievance against the action of the respondents, which has been questioned in this writ petition and compensation being sought.

7.In view of the above, this Court finds that there is absolutely no merit in this writ petition and therefore, the same stands dismissed. No costs.

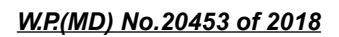
Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)



4/4