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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.03.2022

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THE HONOURABLE MR.JUSTICE T.RAJA

and

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.P.No.5507 of 2022

S.Gopinath

... Petitioner

vs

1. The District Collector,
Chengalpattu,
Chengalpattu District.
2. The Revenue Divisional Officer,
Tambaram, Tamabaram.
3. The Tahsildar,
Pallavaram,
Chennai.
4. The Commissioner,
Tambaram Corporation,
Tambaram.

5. N.Saravana Prakash

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus forbearing the Third Respondent and his officials from evicting or demolishing the petitioner land and its building comprised in S.No.61/5 (T.S.No.55) situated as Zamin Pallavaram, Pallavaram Taluk, Chengalpattu District except in accordance with due process of law.

For Petitioner : Mr.K.Myilsamy

For RR1 to R3 : Mr.A.Selvendran
Special Government Pleader



O R D E R

[Order of this Court was delivered by T.RAJA, J.]

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Mr.S.Gopinath S/o. Late Selvanathan residing at Door No.1/92, Duraikannu Salai, Old Pallavaram, Chennai has come to this Court seeking issuance of Writ of Mandamus directing the third respondent/Tahsildar and his officials from evicting or demolishing the petitioner's land and its building comprised in S.No.61/5(T.S.No.55) situated as Zamin Pallavaram, Pallavaram Taluk, Chengalpattu District.

2. Learned Counsel appearing for the petitioner submitted that the land measuring 13 cents comprised in S.No.61/5 (T.S.No.55) in Zamin Pallavaram, Pallavaram Taluk, was classified as "Grama Natham". The petitioner has been occupying in the said land from 1980 onwards and therefore, he is an absolute owner of subject property. The third respondent/Tahsildar has demanded for payment of "B-Memo" and the same was also paid by the petitioner without prejudice to his rights. It is further submitted that after entering into the possession, the petitioner had constructed a small house in one portion of the land and in the remaining portion, the petitioner established a small building under the name of Dr.Ambedkar Public Social Welfare Association where the petitioner along with his friends providing free education to the children. While so, due to some grudge against the petitioner, 5th respondent/Saravana Prakash has given a complaint, as though the petitioner has been in occupation by encroaching the land in question. In the mean while, the petitioner has given a representation to the third respondent for grant of Patta on 30.06.2021. But, without considering the same, the respondent has been attempting to remove the petitioner from the subject property, hence, a direction may be given to the third respondent not to interfere with the petitioner's possession.

3. Learned Special Government Pleader appearing for the respondents 1 to 4 submitted that in a similar Writ Petition No. 32460 of 2019 filed by the fifth respondent/Saravana Prakash, this Court directed the Tahsildar, Pallavaram, to take action for removal of encroachment in Old Town Survey No.61/5 New Survey No.54/2 in Zamin Pallavaram. The third respondent/Tahsildar has filed a detailed status report dated 09.02.2022 stating that some of the occupiers, who have encroached the land in question, were issued with notice under Section 7 of Tamil Nadu Encroachment Act, 1975. Since Orders have been passed under Section 6 of the Act for eviction, the prayer of the petitioner to forbear the third respondent is



liable to be rejected.

4. Learned Counsel appearing for the fifth respondent submitted that the Patta issued by the Government bearing New Survey No.54/2 of Zamin Pallavaram, old Town Survey No.61/5 stands in the name of the fifth respondent.

5. On perusal of the status report filed by the respondent/Tahsildar dated 09.02.2022 in Cont.P.No.208 of 2021 in W.P.No.32460 of 2019 shows that the Town Surveyor of Pallavaram Municipality, after inspecting the place in question, reported that an extent of 0076 sq. mt in New Town Survey No.54/2, Old Survey No.61/5 part in Block 56, Ward B of Pallavaram Town stands in the names of Mr.Saravana Prakash and two others as Pattadars.

6. It is also further seen from the records that the fifth respondent herein (N.Saravana Prakash) has already filed a Writ Petition in W.P.No.32460 of 2019, whereby, this Court, by order dated 20.11.2019, directed the Tahsildar, Pallavaram, to take appropriate action with respect to the removal of encroachment made in New Town Survey No.54/2 (Old Town Survey No.61/5) situated in Zamin Pallavaram, Pallavaram Taluk, Kancheepuram District. Therefore, since the encroachment made in very same Survey Number was already decided by this Court directing the Tahsildar, Pallavaram, to take appropriate action, the prayer of the petitioner seeking to forbear the respondent from evicting him from the very same land in question i.e., Survey No.61/5, is not tenable and therefore, the Writ Petition is dismissed. No Costs.

Sd/-
Assistant Registrar(CS-II)

//True copy//

Sub Assistant Registrar

dh

To

1. The District Collector,
Chengalpattu,
Chengalpattu District.
2. The Revenue Divisional Officer,
Tambaram, Tamabaram.



3. The Tahsildar,
Pallavaram,
Chennai.

4. The Commissioner,
Tambaram Corporation,
Tambaram.

+1cc to Mr.K.Myilsamy, Advocate SR.No.17483

+1cc to Government Pleader SR.No.17026

W.P.No.5507 of 2022

SS(CO)
GMY(11/04/2022)