

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2022

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.NO.4161 OF 2015

AND

W.M.P.NO.1 OF 2015

Julie

... Petitioner

.Vs.

1. The Executive Officer,
Mamallapuram Town Panchayat,
Mamallapuram,
Thirukazhukundram Taluk.
2. The Tahsildar,
Taluk Office,
Thirukazhukundram Taluk,
Kanchipuram.
3. The Revenue Divisional Officer,
Office of the Collectorate,
Kanchipuram.
4. The District Collector,
Office of the Collectorate,
Kanchipuram.
5. The Secretary to Government,
Government of Tamil Nadu,
Revenue Department,
Fort St. George,
Chennai - 600 009.

... Respondents

PRAYER:-

Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, forbearing the respondents 1 and 2 from taking any action in pursuance of the alleged inspection and measurement taken on 03.12.2014, at No.3/1 Thillaiadi Valliammai Street, Mamallapuram, Kanchipuram District comprised in Old S.No.119(Part) and present S.No.119/14A, 119/15A and 119/15B2 except due process of law.

For Petitioner : Mr.M.Kamalanathan

For Respondents : Mr.A.Selvendran
Special Government Pleader

O R D E R

This writ petition has been filed for issue of writ of mandamus forbearing the respondents from interfering with the possession and enjoyment of the subject property unless otherwise by due process of law.

2. The case of the petitioner is that she is the owner of the subject property by virtue of the registered Settlement Deed dated 15.04.2004 and a registered Sale Deed dated 19.02.2007. The further case of the petitioner is that she also obtained the patta for the subject property and has put up construction and she is paying the property tax.

3. The grievance of the petitioner is that the 1st and 2nd respondents started measuring the property with the help of the Surveyor and was attempting to lay the survey stone. The petitioner apprehended threat to her possession and enjoyment of the subject property and as a result, the present writ petition was filed seeking for appropriate directions.

4. The 1st and 2nd respondents have filed counter affidavits. They have taken a stand that the survey was conducted through the Revenue Inspector and the outcome of the inspection revealed that the petitioner had encroached an extent of 667 Sq. Ft in S.No.119/16 which has been categorized in the revenue records as "Kuttai Poramboke". It is under these circumstances, proceedings were initiated for removing the encroachment. It is also stated in the counter affidavit that Section 7 notice under the Tamil Nadu Land Encroachment Act was also attempted to be served on the husband of the petitioner and he seems to have refused to receive the notice on the ground that the property is not owned by him and that it is owned by his wife. The respondents have taken a categoric stand that the process of removal of encroachment had been commenced by issuing appropriate notice under the Tamil Nadu Land Encroachment Act. In view of the same, the respondents have sought for the dismissal of this writ petition.

5. Heard Mr.M.Kamalanathan, learned counsel appearing on behalf of the petitioner and Mr.A.Selvendran, learned Special Government Pleader appearing on behalf of the respondents.

6. In the considered view of this Court, the portion of the land that is said to have been encroached by the petitioner has been categorized as a "Kuttai Poramboke" which is a water body. Proceedings have also been initiated under the Tamil Nadu Land Encroachment Act to remove the encroachment. This Court has time and again directed the authorities to remove all the encroachments from the water body. In view of the same, this Court does not find any ground to interfere with the action initiated by the respondents. It is enough if notice is issued under the Tamil Nadu Land Encroachment Act and if really the petitioner is aggrieved by the same, she has to workout her remedy in the manner known to law and no orders can be passed in the present writ petition.

7. This Court does not find any merits in this writ petition and accordingly, this writ petition stands dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

ssr

To

1. The Executive Officer,
Mamallapuram Town Panchayat,
Mamallapuram,
Thirukazhukundram Taluk.
2. The Tahsildar,
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Thirukazhukundram Taluk,
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3. The Revenue Divisional Officer,
Office of the Collectorate,
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4. The District Collector,
Office of the Collectorate,
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5. The Secretary to Government,
Government of Tamil Nadu,
Revenue Department,
Fort St. George,
Chennai - 600 009.

+1cc to Mr.M.Kamalanathan, Advocate, S.R.No.38912
+1cc to the Government Pleader, S.R.No.39362

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EV(CO)
PBS/14/07/2022