

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.07.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE

AND

THE HON'BLE MRS.JUSTICE N.MALA

W.P.No.16769 of 2022

S.Logasundaram

.. Petitioner

Vs

1.The State of Tamil Nadu,
rep. by the Principal Secretary to Government,
Revenue (A1) Department,
Fort St. George,
Chennai-600 009.

2.The District Collector,
Dharmapuri District,
Dharmapuri.

3.The Thasildar,
Dharmapuri District,
Dharmapuri.

4.Public Works Department,
(Water Irrigation Management Department)
rep. by its Assistant Engineer,
W.R.O., Dharmapuri.

.. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus calling for the records relating to the impugned order Ka.En.Ko.17/Oo.Po. (Pa), Dharmapuri/2022 dated 02.05.2022 on the file of the 4th respondent and quash the same and consequently direct the respondents to reclassify the lands in Survey No.330/2 and 306 situated at Sogathur village, Dharmapuri District.

For the Petitioner : Dr.P.Vasudevan

For the Respondents : Mr.J.Ravindran
Addl. Advocate General
assisted by
Mr.A.Selvendran
Spl. Government Pleader

ORDER

(Order of the Court was made by the Hon'ble Chief Justice)

This writ petition has been filed to challenge the notice in Form-III issued under the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007 [for short, "the Act of 2007"].

2. Learned counsel for the petitioner submitted that the land in question belongs to him, yet, without serving notices in Form-I, Form-II and Form-III to him, the impugned notice was served on his tenant Mrs.Kannagi without following the law. It is more so when the petitioner preferred a suit to seek injunction earlier against the respondents and is pending before the District Munsif Court, Dharmapuri. Since suit was preferred by the petitioner in the year 2020, the respondents could not have taken action against his tenant. Rather, they should have waited for the disposal of the suit.

3. It is further submitted that the land in question belongs to his father as would be evident from the tax payment receipt and the other documents produced by the petitioner. Yet, ignoring the aforesaid, action has been initiated in an illegal manner. Therefore, the writ petition has been preferred to protect the petitioner from the aforesaid.

4. We have considered the submissions made by learned counsel for the petitioner and also perused the documents on record.

5. There is nothing on record to prove the title of the petitioner in the land in question, for which notice in Form-III of the Act of 2007 has been given. Notice in Form-III has not been given to the petitioner, but it has been given to one Mrs.Kannagi, wife of Murugan. However, claiming himself to be a rightful owner of the land in question, the petitioner has filed the present writ petition

6. To prove the title of the land in question, nothing has been produced other than the tax receipt, which cannot confirm the title in favour of the petitioner. It is a fact that though the suit for injunction was filed by the petitioner, despite its filing in the year 2020, no injunction has been granted. Thus, mere pendency of the suit does not mean that the respondents are restrained from taking action in accordance with law. It is also a fact that Form-III has been given in respect of Survey No.176, which is a waterbody and nothing has been produced on record to show that notice has not been issued for waterbody. The petitioner has raised factual issue about the location of the land in question. The Court cannot ascertain the location of the land, while exercising jurisdiction under Article 226 of the Constitution of India.

7. It is further a fact that though the petitioner alleges renting out of the land to the person whom notice in Form-III has been given, a copy of the lease deed has not been produced. Thus, in the absence of any document to show the right of the petitioner in the land in question and that too a legal document, we are not accepting the challenge to the notice issued in Form-III to a person, other than the petitioner.

8. Accordingly, the writ petition fails and it is dismissed. There will be no order as to costs. Consequently, W.M.P.Nos.16081, 16083 and 16085 of 2022 are closed.

Sd/-

Assistant Registrar (CS-IX)

//True copy//

Sub Assistant Registrar

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To:

- 1.The Principal Secretary to Government,
State of Tamil Nadu,
Revenue (A1) Department,
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Chennai-600 009.
- 2.The District Collector,
Dharmapuri District,
Dharmapuri.

3.The Thasildar,
Dharmapuri District,
Dharmapuri.

4.The Assistant Engineer,
Public Works Department,
(Water Irrigation Management Department)
W.R.O., Dharmapuri.

+1cc to Mr.P.Vasudevan, Advocate SR.No.42241

+1cc to Government Pleader SR.No.42891

W.P.No.16769 of 2022

AK II (CO)
GMY(12/07/2022)