



W.P.No.25788 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.09.2022

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.25788 of 2022

Amsaraj

.. Petitioner

Vs

1.The District Collector,
Office of the District Collectorate,
Dharmapuri District.

2.The Tahsildar,
O/o The Taluk Office,
Pennagaram Taluk,
Dharmapuri District.

3.The Revenue Inspector,
O/o The Revenue Inspector,
Perumpalai Panchayath,
Pennagaram Taluk,
Dharmapuri District.

4.The Assistant Division Engineer,
O/o The Highway Sub-Division,
Pennagaram Taluk,
Dharmapuri District.

.. Respondents



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Prayer: Petition filed under Article 226 of the Constitution of India praying for a writ of certiorari calling for the records pertaining to the impugned notice encroachment/2022 E.Ne.U. issued by the fourth respondent dated 07.09.2022 and quash the same as illegal.

For the Petitioner : Mr.G.Manuraj

For the Respondents : Mr.P.Muthukumar
State Government Pleader

ORDER

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

Mr.Amsaraj, son of Madhu, residing at Erkilpattu, Manjaraalli Village, Pennagaram Taluk, Dharmapuri District, has filed this writ petition for issuance of a writ of certiorari calling for the impugned proceedings dated 7.9.2022 issued by the fourth respondent and quash the same.

2. Learned counsel appearing for the petitioner submitted that the petitioner has been in possession and enjoyment of the land in



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question on the basis of the allotment order issued in his name and only on the strength of the allotment order, he has constructed a house. However, the impugned proceedings has been wrongly issued on his father's name. Challenging the said proceedings, he has filed the present writ petition. Learned counsel would submit that the petitioner has paid house tax and had also obtained electricity connection for the house. Further, the petitioner has been issued ration card, voter ID and Aadhar card.

3. Learned counsel for the petitioner further submitted that periodically the petitioner and others have made several applications seeking patta in their favour and, in fact, the first respondent has also inspected the place and informed that patta will be given to them. However, all of a sudden, the impugned proceedings has been issued stating that the petitioner is in occupation of road poramboke and, therefore, he should be evicted from the place in question.



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4. Learned counsel appearing for the petitioner further submitted that the petitioner was not issued with any notice before the issuance of the impugned proceedings. But, in the impugned proceedings, it has been stated that there was an order by this Court in W.P.No.11029 of 2022 dated 27.6.2022 and based on the said order only, eviction proceedings were issued against the encroachers, including the father of the petitioner. He would submit that the official respondents have violated the basic principle of *audi alteram partem* and, therefore, the impugned proceedings is liable to be set aside.

5. On the other hand, learned Government Pleader appearing for the respondents submitted that firstly the petitioner has been in possession and enjoyment of the land classified as road poramboke and he is a rank trespasser; secondly, the land in question does not belong to him and he is not a pattadar and thirdly, this Court has issued direction in W.P.No.11029 of 2022 dated 27.6.2022 to remove all the encroachments found on the road poramboke for expansion of the road.



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6. Learned Government Pleader further submitted that the present petitioner is the son of Madhu, who has filed W.P.No.11029 of 2022 for issuance of a writ of mandamus to remove the encroachment made by one Murugesan from the land in S.No.336 and establish common pathway to his land in S.No.349/2A1A on the land in S.No.336, and based on the direction of this Court issued in the said writ petition only, the impugned proceedings has been issued.

7. We fully agree with the submissions made by learned Government Pleader and the question of issuing prior notice to the petitioner does not arise, as the petitioner's father has only filed W.P.No.11029 of 2022 to remove the encroachment in S.No.336. Further, based on the order dated 27.6.2022 passed in W.P.No.11029 of 2022, the impugned proceedings has been issued by the fourth respondent.



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8. Moreover, the petitioner has concealed the filing of the writ petition by his father. Thus, his conduct amounts to gross abuse of the process of Court, as the petitioner has come to this Court with unclean hands. Therefore, we do not find any ground to cause interference in the impugned proceedings.

9. In view of the above, the writ petition fails and the same is dismissed. There will be no order as to costs. Consequently, W.M.P.Nos.24849 and 24850 of 2022 are closed.

(T.R., ACJ.) (D.K.K., J.)
26.09.2022

Index : Yes/No
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T.RAJA, ACJ
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