



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED:22.02.2022

CORAM

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P (MD).No. 1500 of 2021

T.Jayakumari

...Petitioner

Vs.

1.The District Collector,
Tuticorin District,
Tuticorin.

2.The Sub-Divisional Magistrate and Revenue Divisional Officer
(RDO), Kovilpatty, Tuticorin District.

3.The Tahsildar,
Ottapidaram Taluk,
Ottapidaram, Tuticorin District.

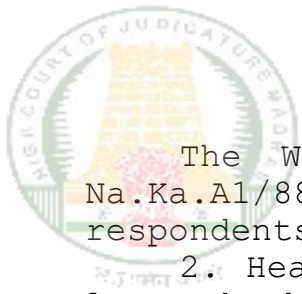
4.The Block Development Officer (BDO),
Ottapidaram Taluk,
Ottapidaram, Tuticorin District.

5.The President,
Puthiyamputhoor Village Panchayat,
Puthiyamputhoor, Ottapidaram Taluk,
Tuticorin.

6.Samuel Durai ...Respondents
(Respondent No.6 is impleaded as per order of this Court dated
22.02.2022 made in W.M.P.(MD).No.3036 of 2021)

Prayer: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records or direction to the second respondent to recall the order pertaining to Na.Ka.A1/8879/2020 dated on 06.01.2021, consequently direct the respondents 1 to 5 to reinstall the container in the same place as obeying the due process of Court of law.

For Petitioner	: Mr.S.Muthumalai Raja
For R1 to R3	: Mr.R.M.Anbunithi Additional Public Prosecutor
For R6	: Mr.Veilmuthu



O R D E R

The Writ Petition has been filed to recall the order in Na.Ka.A1/8879/2020 dated 06.01.2021 and consequently direct the respondents 1 to 5 to reinstall the container in the same place

2. Heard the learned counsel appearing for the petitioner, the learned Additional Public Prosecutor appearing for the respondents 1 to 3 and the learned counsel appearing for the sixth respondent.

3. The case of the petitioner is that the petitioner owned four cents of land comprised in Survey No.25/11. It was purchased by him for valid sale consideration on 23.11.1987 and the same was registered as Document No.985/1987. The petitioner is in possession and enjoyment of the said property. However, the respondents disputed their possession and enjoyment of the said property. The petitioner was constrained to file a suit in O.S.No.411 of 2015 before the Principal District Munsif Court, Tuticorin for the relief of declaration and injunction. The said suit was decreed by the judgment and decree dated 23.06.2020 in favour of the petitioner. Since a complaint lodged by the sixth respondent alleging that the petitioner attempted to install the container in the land comprised in Survey No.25/11 which is classified as 'Government Poromboke', the second respondent conducted an enquiry and ordered to remove the container from the said property.

4. On perusal of the judgment and decree passed in O.S.No.411 of 2015, the petitioner and the respondents are the parties to the said suit and the said suit was duly contested by them. After contesting, the suit was decreed in favour of the petitioner by the judgment and decree dated 23.06.2020. So far, the respondents did not file any appeal as against the judgment and decree in the suit filed by the petitioner. Though the land premises in Survey No.25/11 is classified as 'Government Poromboke' now on the strength of the judgment and decree passed by the Civil Court, the petitioner claims over the property. However, the said decree was not brought to the knowledge of the second respondent while passing the impugned order.

5. In view of the above, the order impugned in the writ petition is set aside and the writ petition is allowed. The respondents 1 to 3 are at liberty to take appropriate action as against the petitioner, if they are succeeded in the appeal suit as against the judgment and decree passed in favour of the petitioner. There shall be no order as to costs.

Sd/-

Assistant Registrar (AE)

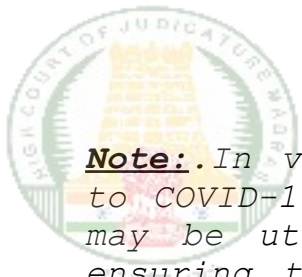
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Sub Assistant Registrar(CS)

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<https://hcservices.ecourts.gov.in/hcservices/>



Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The District Collector,
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- 3.The Tahsildar,
Ottapidaram Taluk,
Ottapidaram, Tuticorin District.
- 4.The Block Development Officer (BDO),
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MGJ(15.03.2022) 3P 5C