



W.P.(MD)No.13475 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**
and
THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P(MD)No.13475 of 2022
and
W.M.P(MD)No.9567 of 2022

R.Karuppasamy

... Petitioners

Vs.

- 1.The District Collector,
Virudhunagar District,
Virudhunagar.
- 2.The Tashildar,
Watrap Taluk Office,
Watrap,
Virudhunagar District.
- 3.The Junior Engineer,
Public Works Department,
Watrap,
Virudhunagar District.
- 4.Maharajapuram Panchayat,
Rep. by it's Executive Officer,
Maharajapuram Watarap Taluk,
Virudhunagar District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India,
to issue a Writ of Mandamus to forbear the respondent No.2 from



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removing the remaining fence, 27 coconut trees and plantains in S.No.865/4, 865/13, 137/2, 137/3A, 137/3C, 839/4, 839/5 in an extent of 4.52 acres in Maharajapuram Village, Watrap Taluk, Virudhunagar District and consequently direct the 2nd respondent herein to survey the property as per the representation of the petitioner's father dated 06.06.2022.

For Petitioner : Mr.T.Lajapathi Roy

For Respondents 1 to 3 : Mr.S.P.Maharajan
Special Government Pleader

ORDER

(Order of the Court was made by **S.S.SUNDAR, J.**)

This Writ Petition has been filed for issuance of a Writ of Mandamus, seeking to forbear the respondent No.2 from removing the remaining fence, 27 coconut trees and plantains in S.No.865/4, 865/13, 137/2, 137/3A, 137/3C, 839/4, 839/5, measuring an extent of 4.52 acres in Maharajapuram Village, Watrap Taluk, Virudhunagar District and consequently to direct the 2nd respondent herein to survey the property as per the representation of the petitioner's father dated 06.06.2022.



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2. Heard Mr.T.Lajapathi Roy, learned Counsel for the petitioner as well as Mr.S.P.Maharajan, learned Special Government Pleader, who takes notice on behalf of Respondents 1 to 3. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

3. It is the case of the petitioner that petitioner's father had purchased the properties measuring 4.25 acres comprised in S.No.865/4, 865/13, 137/2, 137/3A, 137/3C, 839/4, 839/5 in Maharajapuram Village. It is his further case that there is an Odai called Nari Odai, which is running North-South. His neighbour, who tried to purchase the said property from the vendor of petitioner's father, instigated the respondents by giving a false complaint as if the petitioner has encroached Nari Odai, which is abutting petitioner's father's property on the Western side. It is stated that petitioner's father is entitled to ownership, possessory right in respect of the various land comprised in S.Nos.865/4, 865/13, 137/2, 137/3A, 137/3C, 839/4, 839/5.

4. The main grievance of the petitioner is that the second respondent has not conducted survey in the presence of the



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petitioner to show that the petitioner has encroached in Government Poramboke land or waterbody as alleged in the impugned notice. Few representations were also given by the petitioner before approaching this Court.

5. This Court is unable to appreciate the contentions of learned counsel for the petitioner having regard to the specific stand taken by learned Special Government Pleader. According to learned Special Government Pleader, the respondents are concerned with the encroachment made by the petitioner in respect of the waterbody in S.No.802/1A and in respect of Government Poramboke land in S.No.865/1 and that the petitioner had encroached into the property of Government and waterbody. It is stated by learned Special Government Pleader that the Government has proceeded with the removal of encroachment after issuing notice to the petitioner. It is also the specific case of learned Special Government Pleader that survey was conducted in the presence of the petitioner's father and he agreed to remove the encroachment.

6. In this factual matrix, this Court finds no merits in the writ petition. As the respondents are not disturbing the



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petitioner in respect of the property, to which the petitioner has title and for which petitioner has filed the writ petition. Therefore, this Court finds no cause of action for filing this writ petition.

7. Though learned Special Government Pleader states that survey was conducted in the presence of the petitioner, he is not able to produce any material to show that survey was conducted after issuing notice to the petitioner. Therefore, as it was directed by this Court in several writ petitions, to find out the exact portion the petitioner has encroached into Government Poramboke land in Survey No.865/1 and Odai in Survey 802/1A, the respondents are directed to initiate appropriate proceedings under the provisions of Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007 or Tamil Nadu Land Encroachment Act, 1905 as indicated in ***W.P.(MD) No.11933 of 2022 dated 16.06.2022 (R.Katturaja v. The District Collector, Madurai District)*** and in ***W.P.(MD) No.11825 of 2022 dated 15.06.2022 (R.Gurusamy v. The Government of Tamil Nadu, through its Secretary to Government, Revenue and Disaster Management Department)***. If survey had already been conducted and completed in the presence of the petitioner's father and the



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respondents have got proper proof, it is open to them to proceed further in accordance with law as directed in the above two judgments.

8. With the above directions, this Writ Petition stands dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

[S.S.S.R., J.] [S.S.Y., J.]
28.06.2022

Index : Yes / No
sj

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and

S.SRIMATHY, J.

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