



W.P.(MD)No.15179 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.07.2022

CORAM

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

W.P(MD)No.15179 of 2022
and
W.M.P(MD)No.10873 of 2022

Pitchamuthu

... Petitioner

Vs.

- 1.The District Collector,
Trichy District,
Trichy.
- 2.The Tahsildar,
Musiri Taluk Office,
Musiri,
Trichy District.
- 3.The Block Development Officer,
Musiri Union,
Musiri,
Trichy District.
- 4.The President,
Gunaseelam Village Panchayat,
Chennakkarai Post,
Musiri Taluk,
Trichy District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned notice of the second



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respondent vide his notice dated 09.06.2022 and quash the same as illegal, consequently direct the respondents not to vacate the petitioner's house along with compound wall situated in his patta land in S.F.No.276/1 for an extent of 0.02.80 hectares at Gunaseelam Village, Musiri Taluk, Trichy District, without following due process of law, before conducting survey by the revenue officials and fix the boundaries of the subject land.

For Petitioner :Mr.K.Arunraj

For R-1 & R-2 :Mr.S.P.Maharajan,
Special Government Pleader

For R-3 & R-4 :Mr.T.Amjad Khan,
Government Advocate

ORDER

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

Heard Mr.K.Arunraj, learned counsel for the petitioner, Mr.S.P.Maharajan, learned Special Government Pleader for respondents 1 and 2 and Mr.T.Amjad Khan, learned Government Advocate for respondents 3 and 4.

2. This writ petition is filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned notice of the second respondent, dated 09.06.2022 and to direct the



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respondents not to vacate the petitioner's house along with compound wall situated in his patta land in S.F.No.276/1 to an extent of 0.02.80 hectares at Gunaseelam Village, Musiri Taluk, Trichy District, without following due process of law.

3. It is the case of the petitioner that he is the absolute owner of the property in S.F.No.276/1 measuring an extent of 0.02.80 hectares in Gunaseelam Village, Musiri Taluk, Trichy District. It is the specific case of the petitioner that he has constructed a house long back and that, he is living there along with his family members.

4. There is no dispute with regard to the petitioner's ownership over the dwelling house which is comprised in S.F.No.276/1. The grievance of the petitioner is that the respondents have initiated proceedings for removal of encroachment in respect of the property which is classified as road in Survey No.277 and in a move to remove the encroachments, the petitioner's possession in respect of his patta land is disturbed.

5. Earlier, when the respondents served a notice under the provisions of the Tamil Nadu Land Encroachment Act, 1905, the



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petitioner himself has filed a writ petition in W.P.(MD)No.14618 of 2021, wherein this Court by order dated 17.08.2021, directed the concerned Tahsildar to conduct survey in the land in dispute and proceed against the petitioner if the Tahsildar comes to the conclusion that the petitioner had encroached the land in Survey No.277.

6. It is the case of the respondents that as ordered by this Court earlier, survey was conducted by the Tahsildar in the presence of the petitioner and the petitioner's encroachment is also noticed

7. The learned Special Government Pleader further submitted that notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905, was issued to the encroachers including the petitioner. Even though the encroachment was identified in the presence of the petitioner and others and the encroachment in all other cases have been removed, it is reported that the petitioner's encroachment is yet to be removed.

8. This Court has no reason to disbelieve the submission of the learned Special Government Pleader as the revenue records



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revealed that there was a survey conducted by the Tahsildar after issuing notice to all the encroachers. It is to be seen that the petitioner's encroachment is earmarked by drawing a plan. In response to the notice issued to the petitioner, he has also given his explanation. However, after the notice issued under Section 6 of the Tamil Nadu Land Encroachment Act, 1905, which is impugned in this writ petition, the petitioner has come forward with the prayer that he shall not be evicted from the petitioner's house along with the compound wall in his patta land in S.F.No.276/1.

9. It is to noted that the encroachment is going to be removed only in the Government land not in the patta land of the petitioner. Further, it is to be seen that the petitioner has constructed his compound wall encroaching into the Government land and therefore, this Court after seeing the records is convinced that the petitioner has approached this Court with unclean hands suppressing the actual survey conducted by the Tahsildar for identifying the encroachment.

10. In the result, for want of bonafides and on merits, this writ petition is dismissed. No Costs. Consequently, connected miscellaneous petition is closed.



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11. The respondents are directed to remove the encroachment by following the procedure and report to this Court by 28.07.2022.

[S.S.S.R., J.] [S.S.Y., J.]
14.07.2022

Index : Yes / No

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