



W.P.(MD)No.17544 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.08.2022

CORAM

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

W.P.(MD)No.17544 of 2022
and
W.M.P(MD) No.12772 of 2022

R.Chittu

... Petitioner

Vs.

- 1.The District Collector
Office of the District Collector,
Sivagangai District.
- 2.The Revenue Divisional Officer,
Devakottai Revenue Divisional Officer Office,
Sivagangai District.
- 3.The Tahsildar
Office of the Tahsildar,
Karaikudi Taluk,
Sivagangai District.
- 4.The Deputy Tahsildar
Karaikudi Taluk,
Sivagangai District.

... Respondents



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Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus to forbear the respondent No.3 from evicting the petitioner and her family members from her dwelling house situated in Survey No.372/14 comprising of 6.50 ares in Koomatchipatti village, Sempanur group, Sivagangai District, till the disposal of the appeal filed by the petitioner before the Respondent No.1 under section 10 of the Tamil Nadu Land Encroachment Act, dated 16.05.2022, now pending before the Respondent No.3 in accordance with law.

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.T.Amjad Khan,
Government Advocate

ORDER

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

This writ petition is filed for issuance of Writ of Mandamus forbearing the third respondent from evicting the petitioner and her family members from her dwelling house situated in Survey No.372/14 comprising of 6.50 ares in Koomatchipatti village, Sempanur group,



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Sivagangai District, till the disposal of the appeal filed by the petitioner before the first respondent under section 10 of the Tamil Nadu Land Encroachment Act, dated 16.05.2022, now pending before the first respondent in accordance with law.

2. Brief facts that are necessary for disposal of the writ petition are as follows :

The petitioner states that she belongs to Hindu Scheduled Caste Community and working as a coolie. It is the case of the petitioner that for past two generations, the petitioner's husband's family were residing in the dwelling house in Koomatchipatti Village, Sempanur Group in Survey No.372/14 occupying an extent of 6.50 ares, which is equivalent to 16 cents. It is her further case that she is paying the house tax and obtained electricity service connection. It is admitted by the petitioner that a notice under Section 7 of the Tamil Nadu land Encroachment Act, 1905 was issued to the petitioner by the Tahsildar, the third respondent herein.

3. From the reply to the notice issued to the Tahsildar, it is seen



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that the petitioner has unauthorisedly occupying the Government land.

Very strangely a request was made by the petitioner to assign the lands in favour of the petitioner and not to evict the petitioner from the encroached portion. It is admitted by the petitioner that the third respondent /Tahsildar has passed an order of eviction, dated 30.04.2022, directing the petitioner to vacate. The request of the petitioner for assignment of land was also rejected by the Tahsildar on the ground that the petitioner had obtained an assignment of land measuring an extent of 12.5 ares (about 31 cents) earlier and therefore, she is not eligible to seek further assignment of more lands.

4. The present writ petition is filed for issuance of writ of Mandamus forbearing the respondents from evicting the petitioner, till such time the appeal filed by the petitioner before the District Collector is to be decided.

5. It is to be noted that the petitioner has only submitted a representation before the District Collector during the petition day (Monday). The petitioner has admitted that the property in which she has



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put up construction is a poramboke land and that the eviction proceedings have been initiated after issuing show-cause notice to the petitioner. The petitioner has not raised any valid grounds before the District Collector as against the order passed by the third respondent under Section 6 of the Land Encroachment Act. However, the representation of the petitioner before the District Collector was to consider whether the petitioner is entitled to assignment by virtue of her continuous possession for more than 50 years. The eviction proceedings were initiated against the petitioner who has encroached the public land. On the strength of petitioner's unlawful possession, the petitioner appears to have engineered her family members to get assignment. The person who has encroached the land of Government cannot be shown any indulgence for giving assignment because she is in possession of the land. The Tahsildar is the competent authority to consider the eligibility of persons to get assignment of Government lands. As stated earlier, the petitioner is found not eligible, as she has obtained assignment of Government lands earlier for an extent of 30 cents. Having regard to the admitted facts that the petitioner has encroached the Government land, she cannot take advantage of her own encroachment to get patta, especially, when she had



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obtained patta earlier from the Government for more extent. This Court does not find any merit in this writ petition. Therefore, the writ petition is devoid of merits

6. Accordingly, this writ petition stands dismissed. No costs. Consequently connected miscellaneous petition is closed.

[S.S.S.R., J.] [S.S.Y., J.]
05.08.2022

Index : Yes / No
Internet : Yes / No
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