



W.P.(MD)No.16653 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.07.2022

CORAM

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

W.P(MD)No.16653 of 2022
and
W.M.P.(MD)No.12077 of 2022

C.Malaiyalam

... Petitioner

Vs.

1.The District Collector,
Madurai District, Madurai.

2.The Revenue Divisional Officer,
Collector Office Premises, Madurai District, Madurai.

3.The Tahsildar, Madurai North Taluk,
Madurai District.

4.The Block Development Officer,
Madurai West Union Office, Madurai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, to direct the respondents do not demolish the petitioner's hut house made in Survey No.20/1 situated at Lakshmipuram Village, Madurai North Taluk, Madurai District based on the petitioner's representation dated 19.07.2022.



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For Petitioner :Mr.A.Vadivel
For R1 to R3 :Mr.J.Ashok
Additional Government Pleader
For R4 :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 a Writ of Mandamus to direct the respondents not to demolish the petitioner's hut house made in Survey No.20/1 situated at Lakshmipuram Village, Madurai North Taluk, Madurai District based on the petitioner's representation dated 19.07.2022.

2.Heard Mr.A.Vadivel, learned Counsel for the petitioner, Mr.J.Ashok, learned Additional Government Pleader, who takes notice on behalf of R1 to R3 and Mr.T.Amjad Khan, learned Government Advocate, who takes notice on behalf of the fourth respondent. By consent of all the parties, the above Writ Petition is taken up for final disposal at the admission stage itself.

3.In the affidavit filed in support of this Writ Petition, the



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petitioner states that he has put up a small hut measuring 280 sq.ft., in a property, which is classified as natham poramboke. It is the petitioner's case that he has constructed a hut and paying house tax from 1986 and that electricity service connection was also granted to the said property. It is the case of the petitioner that he has no other house in his name in the same locality. It is the case of the petitioner that he is living in the small hut along with his family members. He claims possessory right.

4.It is stated that under the instruction of the third respondent, his subordinates have conducted survey in S.No.20/1 under the pretext that they are going to evict the petitioner and intended to construct a community hall in S.No.20/1. The petitioner submitted a representation not to remove the encroachment. In the same representation, the petitioner suggested that there are alternative places for construction of community hall.

5.The learned Additional Government Pleader, on instructions, submitted that the petitioner has already constructed a permanent house in Lakshmipuram. Further, he submits that the petitioner has very recently encroached the property by putting a small hut, when the respondents have identified and cleaned the said property for the purpose of constructing a community hall.



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6.The learned Government Advocate produced before this Court the photographs and a communication, which he has received from the Block Development Officer. From the communication, it is revealed that the petitioner has already residing in a permanent house put up by him adjacent to the land in dispute. However, the land in dispute was earmarked for constructing a community hall for the purpose of public. After cleaning and measuring the land in dispute, it appears that the petitioner has encroached the said land by putting up a temporary hut. It is only the basis of the said encroachment, the petitioner claims that he is in possession of the property for several decades.

7.The dispute is not in respect of the plot, in which the petitioner has put up a permanent construction. However, the dispute is only in respect of a small piece of vacant land measuring to an extent 280 sq.ft., in S.No.20/1, which was earmarked by the respondents for the purpose of constructing a community hall for the public.

8.In view of the photographs as well as the communication produced by the learned Government Advocate, this Court is unable to find any truth in the affidavit filed in support of this Writ Petition. The construction that is put up by the petitioner is a hut. As seen from the



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photographs, a small hut was recently put up adjacent to the permanent house of the petitioner with a clear intention to grab the land. This Court is unable to find any merit in the Writ Petition, as the petitioner has approached this Court by suppressing materials facts. A false affidavit has been filed before this Court. The petitioner has not produced any documents to show that he was given patta for the property, where the petitioner has encroached, according to the respondents. It is true that the property, which is classified as natham does not vest with Government. However, the properties, which are lying vacant used or reserved for communal purpose vest with Government under any one of the three enactments, namely, Tamil Nadu Estates (Abolition and Conversion into Ryotwari), Act 1948 (Act 26 of 1948) or The Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963, (Act 26 of 1963) or Tamil Nadu Minor Enams (Abolition and Conversion into Ryotwari), Act, 1963 (Act 30 of 1963).

9.The petitioner has not produced a scrap of paper to suggest that he was in possession and enjoyment of the property exercising his right of ownership before putting up the hut, which is of recent origin. In such circumstances, this Court has no other option but to dismiss this Writ Petition. Accordingly, this Writ Petition is dismissed. No costs. It is open to the respondents to initiate action against the petitioner in



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accordance with law to remove the encroachment after following the due process of law within a period of eight weeks from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

[S.S.S.R., J.] [S.S.Y., J.]
28.07.2022

Index : Yes / No

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