



W.P.(MD)No.20410 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 22.09.2022

CORAM

THE HONOURABLE Mrs.JUSTICE V.BHAVANI SUBBAROYAN

Writ Petition (MD) No.20410 of 2022
and
W.M.P.(MD)No.14796 of 2022

S.John Peter

.. Petitioner

Versus

1.The District Collector,
Dindigul District,
Dindigul.

2.The District Revenue Officer,
Dindigul District,
Dindigul.

3.The Commissioner,
Dindigul Corporation,
Dindigul.

.. Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to direct the respondents to consider the representation of the petitioner, dated 18.07.2022 and not to interfere with the property rights of the petitioner in Old T.S.No.1364/2, corresponding to New T.S.No.1364/53, measuring an extent of 2000 sq.ft. of land and building, situated at Dindigul Town.

For Petitioner : Mr.R.R.Kannan

For Respondents 1 and 2 : Mr.D.Sadiq Raja
Additional Government Pleader



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For 3rd Respondent : Mr.M.Thirunavukkarasu

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ORDER

The petitioner has prayed for issuance of a Writ of Mandamus, to direct the respondents to consider his representation, dated 18.07.2022 and not to interfere with his property rights in Old T.S.No.1364/2, corresponding to New T.S.No.1364/53, measuring an extent of 2000 sq.ft. of land and building, situated at Dindigul Town.

2.The learned counsel appearing for the petitioner submitted that the petitioner's grandfather namely, Vethamuthu has purchased 1000 sq.ft. of vacant house site, comprised in T.S.No.1364/2, situated at Chettinaickkanpatti Village, Dindigul Town, from one Alagarsamy Naidu, through a sale deed dated 10.02.1939. Subsequently, the petitioner's grandfather once again purchased 1000 sq.ft. of vacant site abutting the earlier plot, comprised in T.S.No.1364/2, from the said Alagarsamy Naidu, through a sale deed dated 03.05.1945. The petitioner's grandfather was in peaceful possession and enjoyment of 2000 sq.ft. of housing plot, wherein he constructed a tiled house and residing therein. Subsequently, the Settlement Tahsildar No.1, Madurai, conducted elaborate enquiry and passed the proceedings, dated 28.06.1973, stating that the petitioner's father namely, Siluvaimuthu is entitled for Patta for the above said Plots. Hence, the Assistant Settlement Officer, issued Patta



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bearing No.84, in favour of the petitioner's father for the housing plots, situated in T.S.No.1364/24. While granting Patta in favour of the petitioner's father Siluvaimuthu, T.S.No.1364/2 was sub-divided into several survey numbers and the petitioner's father was issued with a Settlement Patta for the housing plots in T.S.No.1364/24. However, the third respondent's officials have made mutations in the Town Survey Register as T.S.No.1364/53 instead of T.S.No.1364/24. Even though the petitioner has made repeated attempts to correct the same, so far, he is not in a position to ascertain whether the correction has been carried out or not.

3.The learned counsel further submits that the petitioner's father obtained water connection for the house situated in T.S.No.1364/53. The petitioner is regularly paying the electricity charges for the dwelling house. While so, the third respondent in a high-handed manner, tried to lay a road in the petitioner's Patta land during the year 2010 as if the property is a Government Poromboke land. The petitioner made efforts to prevent the same and filed a suit for permanent injunction against the third respondent in O.S.No.348 of 2010, before the Additional District Munsif Court, Dindigul, which was dismissed on 13.03.2017, against which, the petitioner preferred A.S.No.54 of 2017 before the Additional Sub-Court, Dindigul and the same is pending. The petitioner made several representations to the authorities to



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restrain the third respondent from laying of road in his Patta land. Taking advantage of the dismissal of the suit, the third respondent is trying to put up road in the petitioner's Patta land, which is a dwelling house. If the same is allowed, the petitioner will be put to irreparable loss and hardship. Hence, the petitioner has approached this Court by way of filing the present Writ Petition for the relief stated supra.

4.The third respondent filed a counter affidavit stating that T.S.No. 1364/53 stands in the name of the petitioner's father. However, the extent of land is only 0.0163.0 sq.mt. [1753.88 sq.ft.] and not 2000 sq.ft. as claimed by the petitioner. It is true that the petitioner's father was issued with Ryotwari Patta for the land in T.S.No.1364/24. The third respondent denied the averment made by the petitioner with regard to the wrong mutation in the Town Survey Register as T.S.No.1364/53 instead of 1364/24. The above said survey numbers are separate from each other and T.S.No.1364/24 is not at all mutated into T.S.No.1364/53. As on date, the Town Survey Register for T.S.No.1364/24 reflects the names of Arockiyadoss, Jeyaseelan, Salamon Saviour and Joseph Selvaraj, who are all the sons of one David and it is admitted that the Town Survey Register for T.S.No.1364/53, measuring an extent of 0.0163.0 sq.mt. in Dindigul Town reflects the name of the petitioner's father Siluvaimuthu. The entire change of survey numbers and extent is not



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vested with the third respondent. It is only executed by the Revenue Department and Survey Department. Further, it is not correct to state that the third respondent has high-handedly tried to lay the road in the Patta land of the petitioner. The third respondent has no concern about the petitioner's possession in T.S.No.1364/53. The third respondent will not interfere with the possession of the petitioner in T.S.No.1364/53. It is pertinent to mention that the Town Survey Register reflects the name of the third respondent for T.S.No. 1364/49 and the encroachment made by the petitioner in T.S.No.1364/49 was properly removed by the third respondent after giving notice to him. Thereafter, once again the petitioner has also made an encroachment in T.S.No.1364/49 by putting up a Thar sheet, measuring an extent of 58 sq.mt.

5.Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents 1 and 2 and the learned Standing Counsel appearing for the third respondent and perused the materials available on record.

6.Considering the rival submissions made by the learned counsel appearing on either side, it is seen that as per Town Survey Register, the extent of T.S.No.1364/53 is only 1753.88 sq.ft., and not 2000 sq.ft. Further, T.S.No. 1364/49 is classified as Road as found in the judgment and decree, dated



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13.03.2017, made in O.S.No.348 of 2010, on the file of the Additional District Munsif Court, Dindigul. Aggrieved over the said judgment and decree, the petitioner filed A.S.No.54 of 2017 before the Additional Sub-Court, Dindigul, and the same is pending. The third respondent has stated that the petitioner is entitled only for 1753.88 sq.ft. in T.S.No.1364/53 and he will not disturb the petitioner's possession in the said survey number. In respect of T.S.No. 1364/49, the third respondent's name is found in the Town Survey Register and therefore, they have every right to remove the encroachment in the said survey number as per law after issuing notice to the petitioner.

7. With the above observation, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes/No
To

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V.BHAVANI SUBBAROYAN, J.

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Order made in
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