



WP(MD). No.12427 of 2018

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Special Original Jurisdiction

Tuesday, the Second day of April Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice R.SURESH KUMAR
AND
The Hon`ble Mr.Justice G.ARUL MURUGAN

WP(MD). No.12427 of 2018

K.Bala Murugan

... Petitioner

Vs

1. The Commissioner
Tiruthangal Municipality,
Tiruthangal,
Virudhunagar District.

2. The Tahsildar
Taluk Office,
Sivakasi,
Virudhunagar District.

3. Pitchai Kani

... Respondent

Prayer :-

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus, directing the 1 and 2 respondents to remove the encroachment made by the 3rd respondent in common street in S.No.1434/8 situated at Gomathinayagampillai Street, Tiruthangal, Virudhunagar District based on petitioners representation dated 30.05.2018.

<https://www.mhc.tn.gov.in/judis>



WP(MD). No.12427 of 2018

ORDER:- This Petition coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr. T.Selvan, Advocate for the Petitioner and of Mr. M.Rajarajan, Advocate for respondent No.1 and Mr. P.Thilakkumar Government Pleader, Government Advocate for the respondent No.2 and respondent No.3 did not appeared either in person or Advocate, this Court made the following order:

(Order of the Court was made by R.SURESH KUMAR, J.)

This Writ Petition has been filed seeking a Writ of Mandamus, to direct the respondents 1 and 2 to remove the encroachment made by the third respondent in common street in Survey No.1434/8 situated at Gomathinayagampillai Street, Thiruthangal, Virudhunagar District based on the representation of the petitioner, dated 30.05.2018.

2.The land in question, ie., at Survey No.1434/8 at Gomathinayagampillai Street, Thiruthangal, Virudhunagar District, according to the petitioner, is a Government poramboke land, where there has been a common pathway or road has been established and is used by not only the petitioner but also all other residents or neighbours for a long time.

3.When that being so, the third respondent wanted to put up construction by putting up a compound wall in the said land prohibiting the ingress and egress and easementary right of the petitioner and others, a representation had



WP(MD). No.12427 of 2018

been given by the petitioner on 30.05.2018 to the official respondents to take action against him. Since the said representation has not been considered, he has approached this Court by filing the present Writ Petition with the aforesaid prayer.

4.The Writ Petition was disposed of by order, dated 15.09.2022, by the Co-ordinate Bench of this Court, where a direction had been given to inspect the land and to take action if there has been any encroachment is found, as alleged by the petitioner in the disputed land.

5.Since it has been posted for compliance, when the matter is taken up today, Mr.P.Thilak Kumar, learned Government Pleader, appearing for the second respondent/Tahsildar has filed an affidavit where *inter alia* he has stated the following:

'6.At the time of inspection, the above said Maheswari has brought to my knowledge about the pending proceedings before the District Revenue Officer, Virudhunagar, wherein, it was alleged that the S.F.No.1434/13, 1434/10 and 1434/8 are wrongly classified as Road and Poramboke land, however, the abovesaid Maheswari is the absolute owner of the petition mentioned land and the land was originally owned by one Ramasamy, thereafter, the mother-in-law of



WP(MD). No.12427 of 2018

WEB COPY

Maheswari namely Chellathaiyammal purchased the said property from Ramasamy vide the registered sale deed in Document No.1501/1930 and subsequently, the property was settled in favour of Maheswari's husband namely Nagarajan.

7.I humbly submit that in view of the abovesaid facts and circumstances, a detailed representation was given by the said Maheswari along with the relevant documents and the same was duly verified by the jurisdictional Revenue Divisional Officer and after perusal of the material documents and after due inspection, it was recommended by the Revenue Divisional Officer vide his proceedings in Na.Ka.A1/2096/2018, dated 05.01.2021, wherein the findings by the Revenue Divisional Officer would reveal the fact that the S.F.No.1434/13, 1434/10 and 1434/8 were wrongly classified as Government poramboke and roads during the time of Natham Settlement Scheme. Hence, it was recommended by the Revenue Divisional Officer to make the necessary corrections in the revenue records and further, it was recommended to mutate the patta in the name of



WP(MD). No.12427 of 2018

WEB COPY

abovesaid Maheswari and the said recommendation is pending for disposal on the file of the District Revenue Officer, Virudhunagar.'

6.Relying upon these averments, the learned Government Pleader would contend that at the time of the inspection only, the Tahsildar came to know that the land in question ie., one Survey No.1434/8 and other two survey numbers were wrongly classified as road and poramboke land, however, it was found that it is a patta land, which was owned by one Ramasamy, from whom the mother-in-law of one Maheswari, namely, Chellathaiyammal purchased the said property, vide registered sale deed in Document No.1501 of 1930 and subsequently, the property was settled in favour of the individual Maheswari's husband, namely, Nagarajan. So, this is how the property has been transferred to various individuals and ultimately it is found that the said land, wrongly during the Natham Survey, has been classified as Government poramboke land, instead of Natham land, of course, belongs to the individual, in whose favour patta had been issued and it had been transferred several times.

7.In this context, the necessary correction has to be made in the revenue records by the District Revenue Officer, to whom recommendation has already been made and it is pending consideration before the District Revenue Officer to make



WP(MD). No.12427 of 2018

the changes and mutation in the revenue records accordingly.

WEB COPY

8. Therefore, the learned Government Pleader would submit that the land in question is not a Government poramboke land, as alleged by the petitioner, therefore, the question of removing any encroachment in the said land allegedly made by the third respondent or anyone as has been complained by the petitioner does not arise, he contended.

9. The said position as has been stated by the Tahsildar concerned is taken on record, as a compliance of this order of this Court. When that being so, the petitioner cannot have any further grievance and if at all still he wants to establish any of his easementary right over the land in question, it is open to him to work out his remedy in the manner known to law. Therefore, by recording the aforestated report/affidavit filed by the Tahsildar as compliance with the order passed by this Court, dated 15.09.2022, it is closed.

Sd/-

Assistant Registrar(CS I)

// True Copy //

/04/2024

Sub Assistant Registrar
(CS - I/ II / III /IV)



WP(MD). No.12427 of 2018

TO
WEB COPY

1. The Commissioner
Tiruthangal Municipality,
Tiruthangal,
Virudhunagar District.

2. The Tahsildar
Taluk Office,
Sivakasi,
Virudhunagar District.

Copy to:

The Section Officer,
Writ Posting Section,
Madurai Bench of Madras High Court,
Madurai.

+1CC to The Special Govt. Pleader,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



WP(MD). No.12427 of 2018

ORDER DATED : 02/04/2024

=====

ORDER

=====

WP(MD). No.12427 of 2018

Giving direction and etc.
as stated within.

MK/16.04.2024 8P 5C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023