



W.P.(MD) No.27820 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD) No.27820 of 2022

and

W.M.P.(MD)No.21915 of 2022

Ragavan

... Petitioner

Vs.

- 1.The District Collector,
Office of the Collectorate,
Ramanathapuram.
- 2.The Sub Collector,
Office of the Sub Collector,
Paramakudi,
Ramanathapuram District.
- 3.The Thasildar,
Taluk Office,
Paramakudi,
Ramanathapuram District.

... Respondents



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PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 3rd respondent vide his proceeding in Na.Ka. A3/1523/2018 dated 05.12.2022 and quash the same as illegal as for as the petitioner's concerned and consequently direct the 1st respondent to dispose the Appeal dated 06.10.2022, filed under Section 10 of the Tamil Nadu Land Encroachment Act, 1905.

For Petitioner : Mr.D.Senthil

For Respondents : Mr.M.Sarangan,
Addl. Govt. Pleader.

ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

Challenging the proceedings of the 3rd respondent, vide his proceeding in Na.Ka.A3/1523/2018 dated 05.12.2022 and also seeking for a consequential direction to the 1st respondent, to dispose of the Appeal dated 06.10.2022, filed under Section 10 of the Tamil Nadu Land Encroachment Act, 1905, the petitioner has filed this Writ Petition.



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2. Heard Mr.D.Senthil, learned counsel for the petitioner and Mr.M.Sarangan, learned Additional Government Pleader, who takes notice for the respondents.

3. By consent of both parties, this Writ Petition is taken up for final disposal at the admission stage itself.

4. According to the petitioner, the property in Natham S.Nos.204/1Pt, 204/2, 204/3, 204/4, 204/5 and 204/9Pt, measuring to an extent of 67 ½ cents in S.Kannanur Village, Paramakudi Taluk, Ramanathapuram District was originally belonged to one Subburaju and he sold the entire extent of property to one Venkidasamy Raju. The said Venkidasamy Raju has sold 17 cents of the property to one Ramasamy Raju. After the death of the said Ramasamy Raju, his legal heir viz., the petitioner approached the authority concerned for issuance of patta in S.Nos.204/6 and 204/7 and patta was issued in respect of S.Nos.204/6 and 204/7, however, patta was not issued in S.No.204/9. According to the petitioner, S.No.204/9 is also belongs to him, but the revenue authorities has



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issued notice under Section 7 of the 'Tamil Nadu Land Encroachment Act, 1905' (hereinafter referred to as 'the Act'). As against the said order of removal of encroachment, the petitioner has filed an appeal before the first respondent. In the meantime, the Thasildar has issued another notice under Section 7 of the Act. As against the said notice, the petitioner has filed a writ petition before this Court in W.P.(MD)Nos.9649 to 9651 of 2019 and this Court by order dated 23.04.2019, directed the 1st respondent to dispose of the appeal. In the appeal proceedings, the first respondent set aside the order of the 3rd respondent and given liberty to the third respondent for removal of encroachment after conducting survey. Thereafter, the third respondent issued another notice dated 05.05.2022, under Section 7 of the Act. As against the said order, the petitioner has filed an appeal dated 06.10.2022, before the first respondent under Section 10 of the Act and the same is pending. In the meantime, the third respondent without considering the statutory appeal before the 1st respondent, has issued the impugned notice dated 05.12.2022 for removal of encroachment. Challenging the said notice, the petitioner has filed this Writ Petition.



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5. The learned Additional Government Pleader appearing for the respondents submitted that as per the 'A' Register, the aforesaid S.No.204/9 is classified as Sarkar Poramboke pathway and the petitioner cannot have any legal right on the aforesaid land. Since the petitioner has encroached upon the said land, the third respondent has issued the impugned proceedings and therefore, this Writ Petition is liable to be dismissed.

6. In view of the above submissions, we are not inclined to interfere with the impugned order passed by the third respondent dated 05.12.2022. Hence, this Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

[D.K.K., J.] [R.V., J.]

09.12.2022

vsm



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D.KRISHNAKUMAR, J.
and
R.VIJAYAKUMAR, J.

vsm

To

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