



W.P.No.10492 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2023

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.10492 of 2023
and
W.M.P.Nos.10439 & 10440 of 2023

J.Venkatesan

...Petitioner

-Vs-

1. The District Collector,
Office of the District Collector,
Sathuvachari, Vellore District.
2. The Block Development Officer (Village Panchayat),
Office of the Panchayat Union,
Anaikattu, Anaikattu Taluk,
Vellore District.
3. The Tahsildar,
Anaikattu Taluk, Vellore District.
4. The Zonal Deputy Block Development Officer,
Office of the Panchayat Union,
Anaikattu, Anaikattu Taluk,
Vellore District.
5. The President,
Agraharam Village Panchayat,
Anaikattu Panchayat Union,
Anaikattu Taluk,
Vellore District.



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6. The Secretary,
Agraharam Village Panchayat,
Anaikattu Panchayat Union,
Anaikattu Taluk, Vellore District.

...Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus, calling for records relating to the impugned order in Na.Ka. No.A8/1986/2022 dated 16.03.2023 on the file of the 2nd respondent and quash the same and consequently direct the 1st respondent to issue a separate Patta to the petitioner based on the Joint Patta in Plot No.188 and on the Partition Deed in Document No.585 of 2018 dated 11.04.2018 on the file of S.R.O. Odugathur, after sub-dividing the Survey No.34/125 to an extent of 243.87 Square meters situated in Agraharam Revenue Village, Agraharam Panchayat, Odugathur Sub-division, Vellore Taluk and District to the petitioner, within the time frame fixed by this Honourable Court.

For Petitioner : Mr.S.Arokia Mani Raj

For Respondents :
(for R1 & R3) : Mr.A.M.Ayyadurai, Govt.Advocate
(for R2,R4 & R5) : Mr.Abishek Murthy, Govt. Advocate

ORDER

The memo issued by the Block Development Officer, Panchayat Union Agraharam, Vallaiyalkarapatti Post, Anaikattu Taluk, Vellore District, in proceeding dated 16.03.2023, is sought to be quashed in the present writ petition.



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2.The petitioner states that the land in Survey No.34/1(old) and 34/125 (new) to an extent of 385 Sq.meters situated in Agraharam Revenue Village, Agraharam Panchayat, Odugathur Sub-division, Vellore Taluk and District was originally assigned to the petitioner by way of Naththam Patta No.188 issued by the 3rd respondent in favour of the petitioner and his brother Mr.J.Balaji jointly.

3.The learned counsel for the petitioner states that the impugned memo was issued by the Block Development Officer, without considering the patta granted in favour of the petitioner and his brother, stating that the petitioners have encroached upon the Naththam land/encroached land. Therefore, the memo is to be set aside.

4.The learned Government Advocate for the respondent clarified by stating that the entire portion of the land is not under encroachment but a portion of the Government land has been encroached upon by the petitioners. The Notice was issued only to remove the encroached portion of the land except the land, an assignment patta was granted in favour of the petitioner. In other words, the respondents have



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not initiated any action in respect of the land assigned in favour of the petitioner. The action was initiated only to evict the petitioner from the encroached portion of the land which belongs to the Government. The petitioner, beyond the assigned land, has encroached upon the Government land and put up certain temporary constructions. That portion alone has to be removed by the authorities and therefore, the petitioner is not entitled for any relief.

5.The learned Government Advocate now clarified before this Court that the land assigned in favour of the petitioner has not been disturbed, and only in respect of the encroached portion, the authorities have issued notice to remove the constructions. In this regard, the authorities have to survey the portion of the land assigned in favour of the petitioner and the encroached portion and accordingly, take appropriate action in the manner known to law. For conducting the measurements and to identify the portion of the encroached land, the respondents shall issue a notice to the writ petitioner under the provisions of the Land Encroachment Act or under the relevant statute and by affording opportunity to the writ petitioner to provide his documents, the authorities shall take a final decision and if any encroachment is identified, then the



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authorities are bound to remove the encroachment and utilise the land for public purposes.

6.The learned Government Advocate brought to the notice of this Court that the Tahsildar conducted an inspection. Thus, a show-cause notice is to be issued to the petitioner providing him an opportunity to defend his case and thereafter, the respondents shall arrive at a conclusion regarding the encroachment, if any, and in such an event, all such encroachments have to be removed.

7.The said exercise is directed to be done within a period of 6 weeks from the date of receipt of a copy of this order. Accordingly, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

(sha)
Index : Yes
Speaking Order
Neutral Citation : Yes

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S.M.SUBRAMANIAM. J.,

(sha)

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