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W.P.No.18277 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2023

CORAM :

THE HONOURABLE MR. JUSTICE R. MAHADEVAN
and
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

Writ Petition No. 18277 of 2018

Sugumar

.. Petitioner

Versus

1. The District Collector
Office of District Collectorate
Tiruvannamalai
2. The Revenue Divisional Officer
Polur, Tiruvannamalai
3. The Tahsildar
Polur, Tiruvannamalai
4. Mr. Gemini

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus, directing the respondents 1 to 3 to take action to cancel the assignment in favour of Chinnammal and remove the encroachments made by the 4th respondent in the channel poramboke in Survey No.150/3C to an extent of 0.16.5 hectare of Jadatharikuppam Village, Polur Taluk, Tiruvannamalai District.

For Petitioner : Mr. M. Sriram

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



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For Respondents

: Mr. A.Selvendran
Special Government Pleader for R1 to R3
Mr. A. Bharathi for R4

ORDER

[Order of the Court was made by R. MAHADEVAN, J]

The prayer made in this Writ Petition is to issue a Writ of Mandamus, directing the respondents 1 to 3 to take action to cancel the assignment made in favour of one Chinnammal and remove the encroachments made by the 4th respondent in the channel poramboke in Survey No.150/3C to an extent of 0.16.5 hectare of Jadatharikuppam Village, Polur Taluk, Tiruvannamalai District.

2. According to the petitioner, he is the owner of the land comprised in Survey No. 150/4 in Jadatharikuppam Village, Polur Taluk, Thiruvannamalai District which is classified as "punja" in the revenue records. It is further submitted that his neighbours are in occupation of the lands comprised in Survey Nos. 150/3B, 150/6B, 146/A and 146/2A. Similarly, the fourth respondent is also one of the adjacent land owners. It is also stated that the rainwater from Jadatharikuppam hill used to pass through a channel in the land in Survey No.150/3C measuring 0.16.5 hectare. However, patta in respect of the said land in Survey No.150/3C was erroneously issued in the



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name of one Chinnammal, Wife of Chinnappa Gounder in the year 1984, but it was never under the occupation of Chinnammal for some time. Taking advantage of the same, the fourth respondent started encroaching the water channel. In view of such obstruction caused by the fourth respondent, the flow of water which emanates from the Kattanikundru, during rainy season, affected the lands of the petitioner and others. Therefore, on 03.04.2014, the petitioner submitted a representation to the second respondent to remove the encroachments. The second respondent also inspected the lands in question and directed the fourth respondent not to make any encroachment and to ensure that the channel is left without any obstruction. While so, the fourth respondent filed a suit in O.S. No. 533 of 2017 on the file of District Munsif, Polur against the petitioner and others to declare that he is the owner of the land in Survey No.150/3C, which is classified as "Channel Poromboke". Even though the petitioner has filed his written statement, it is submitted that the suit filed by the fourth respondent will not be a bar for the official respondents to remove the encroachments caused in the water body. The fourth respondent or any one else is having no right to encroach the water body and affect the flow of water which is being used for irrigation and other allied activities. Therefore, the petitioner has filed the present writ petition.



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3. The learned counsel for the petitioner submitted that on the basis of the representation dated 03.04.2014, the second respondent caused an inspection and directed the fourth respondent not to make any encroachment in the water channel to ensure free flow of water. However, the fourth respondent has caused encroachment over the water channel. The learned counsel for the petitioner therefore prayed for issuing appropriate direction to the respondents 1 to 3 to remove the encroachments made by the fourth respondent forthwith.

4. On the other hand, the learned counsel for the contesting fourth respondent submits that the fourth respondent is the owner of the land in question, which he had purchased through a registered sale deed dated 04.04.2012 and it is his private property. The learned counsel for the fourth respondent also produced a copy of the records maintained by the Revenue Department to show that Patta No.103 was issued in the name of the fourth respondent in respect of the land in Survey No.150/3C which is classified as *Ryotwari Punjai*. When the petitioner and others attempted to interfere with the possession of the fourth respondent and also questioned his title to the land in question, he has filed the suit in O.S. No. 533 of 2017 on the file of District Munsif, Polur and it is pending. Therefore, the learned counsel for the fourth



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respondent therefore submits that the question of encroaching the land in Survey No. 150/3C by the fourth respondent does not arise and he prayed for dismissal of the writ petition.

5. We have heard the learned counsel for the petitioner, the learned Special Government Pleader appearing for the respondents 1 to 3 and the learned counsel for the fourth respondent and perused the materials placed on record.

6. Having regard to the rival submissions and taking note of the nature of relief sought for in this Writ Petition, without going into the merits of the case, we direct the second respondent to consider the petitioner's representation dated 09.11.2017 sent through his counsel, if not considered earlier and pass appropriate orders, on merits and in accordance with law, after affording an opportunity of hearing to the petitioner, the fourth respondent herein and others concerned, within a period of eight (8) weeks from the date of receipt of a copy of this order. It is needless to state that if there is any encroachment as alleged by the petitioner, the same shall be removed, after following due process of law.



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7. With the above directions, this Writ Petition is disposed of. No costs.

(R.M.D., J) (M.S.Q., J)

09.02.2023

ay/rsh

Index: Yes / No

Speaking Order / Non-speaking Order

Neutral Citation: Yes / No

To

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