



WEB COPY



WP No. 30337 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2023

CORAM :

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

Writ Petition No. 30337 of 2018

S. Thayammal

.. Petitioner

Versus

1. The District Collector
Tiruppur District
Tiruppur.
2. The Revenue Divisional Officer
Udumalpet.
3. The Tahsildar
Madathukulam Taluk Office
Madathukulam.
4. Pichaimuthu

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 1 to 3 herein to demolish the unauthorized structure put up by the fourth respondent by encroaching the common pathway leading to the petitioner's house in S.F. No. 372/9, Thungavi Village, Madathukulam Taluk, Tiruppur District by considering the petitioner's representation dated 09.03.2016 and in compliance of the communication of the first respondent dated 21.03.2016 in O.Mu.No.3586/2016/A3.

For Petitioner : Mr. D.R. Arun Kumar



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For Respondents

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

Mr. C. Selvaraj for R4

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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 herein to remove the encroachment made by the fourth respondent in S.F. No. 372/9, Thungavi Village, Madathukulam Taluk, Tiruppur District by considering the petitioner's representation dated 09.03.2016.

2. According to the petitioner, she is residing in the land comprised in S.F. No. 372/9, Thungavi Village and the fourth respondent is her adjacent land owner. It is also stated that there is a common public pathway which leads to the house of the petitioner and others in the locality which is also used by the students to reach the nearby school. While so, the fourth respondent herein had illegally put up an unauthorized structure by encroaching the common pathway leading to the petitioner's house in S.F.No. 372/9, Thungavi Village, Madathukulam Taluk, Tiruppur District. In this context, the petitioner submitted a representation dated 09.03.2016 to the first respondent. On the basis of her representation dated 09.03.2016, a communication dated



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21.03.2016 has been sent by the first respondent to the third respondent to take appropriate action and to submit a report. In spite of the directions issued by the first respondent, the third respondent did not take up any action, hence, the Petitioner has come up before this Court by way of this Writ Petition with the aforesaid relief.

3. The learned Special Government Pleader appearing for the respondents 1 to 3, by placing reliance on the written instructions submitted by the third respondent, submitted that the disputed site was inspected by the Zonal Deputy Tahsildar and noticed that the land in S.F. No. 372/1 measuring an extent of 0.34.0 hectare of Thungavi Village, Maduranthagam was classified as "Mandaveli Poromboke". Subsequently, by a proceedings dated 22.08.2007 of the Tahsildar, Madathukulam, the land in Survey No.372/1 was sub-divided as Survey No. 372/7, 372/8, 372/9, 372/10, 372/11, 372/12, 372/13, 372/14, 372/15, 372/16 and 372/17 and re-classified as Natham. As per the said proceedings, patta was issued to the petitioner in respect of the land in Survey No.372/9 measuring 47 square meters and the fourth respondent was issued Patta in relation to land in Survey No.372/7 measuring 43 square meters. It is further submitted that the fourth respondent herein had put up a construction of a tiled house by encroaching the public land to an extent of 0.00.14 square



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meter. It is also submitted that the fourth respondent did not obtain any permission from the competent authorities for construction of the house in the land classified as poromboke in the revenue records. It is also submitted that the land where the construction has been made by the fourth respondent was the only access to the petitioner to reach her patta land. Above all, it is stated that the petitioner also put up a construction - thatched hut by encroaching the public land. Therefore, it is stated by the learned Special Government Pleader for the respondents 1 to 3 that appropriate action will be taken to remove the encroachments made by the petitioner as well as the fourth respondent herein after following the due process of law.

4. We have heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents 1 to 3.

5. In the light of the above submission that the petitioner as well as the fourth respondent have encroached the public land and put up construction thereof, this Court, without going into the merits of the case, directs the respondents 1 to 3 to conduct an enquiry as to the nature and extent of encroachment made by the petitioner and the fourth respondent in the public land, as per the report dated 19.12.2022 of the third respondent. It is made



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clear that if there is any encroachment caused by the petitioner as well as the fourth respondent herein, the same shall be removed by following the due process of law, within a period of 12 weeks from the date of receipt of a copy of this order.

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

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

21.02.2023

ay/rsh

Index: Yes / No

Speaking Order / Non-speaking Order

Neutral Citation: Yes / No

To

1. The District Collector
Tiruppur District
Tiruppur.

2. The Revenue Divisional Officer
Udumalpet.

3. The Tahsildar
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