



W.P.(MD) No.2840 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.2840 of 2023

and

W.M.P.(MD)Nos.2637 and 2640 of 2023

Thangaraja

... Petitioner

-Vs-

1.The District Collector,

Thoothukudi District, Thoothukudi.

2.The Tahsildar,

Sathangulam Taluk,

Thoothukudi District.

3.The Divisional Engineer,

High Ways, (Construction and Maintenance),

No.4/1A Ettayapuram Road, Sundaravelpuram West,

KTC Nagar, Thoothukudi-628 001.

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4.The Assistant Divisional Engineer,

Highways, (Construction and Maintenance),

No.4, Velan Puthukulam Road,

Sathankulam, Thoothukudi District-628 704.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records pertaining to the impugned eviction order passed by the fourth respondent in Ka.No.Encroachment/2022/Ka/ dated 27.09.2022 and quash the same as illegal, malicious and arbitrary.

For Petitioner : Mr.R.Balakrishnan

For Respondents : Mr.K.Balasubramani

Special Government Pleader

ORDER

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

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

2.According to the petitioner, he is in possession and enjoyment of the property in Survey No.427/1A3A, Puthukulam Village, Sathankulam Taluk, Thoothukudi District to an extent of 15 cents. Now, the 4th respondent has

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issued the eviction notice dated 27.09.2022, directing the petitioner to remove the encroachment. Challenging the same, the petitioner has filed this Writ Petition.

3.Mr.K.Balasubramani, learned Special Government Pleader, who takes notice for the respondents, on instructions, submits that based on the complaint given by one Josuva, pointing out that there are encroachments in Survey No.430, which is classified as State Highways Road, the authorities concerned conducted a detailed survey and during survey, it was found that the petitioner is also one of the encroachers. Therefore, the present impugned eviction notice has been issued and the 4th respondent has not made any attempt to interfere with the land of the petitioner in Survey No.427/1A3A.

4.The learned counsel appearing for the petitioner strongly objected the said submission and sought for survey of the land in Survey No.430 in the presence of the petitioner and if the survey reveals any encroachment, the petitioner is ready to surrender the said land to the 4th respondent even without any notice.

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5.The said statement of the learned counsel for the petitioner is recorded.

6.In the light of the aforesaid submissions made on either side, we direct the 4th respondent to survey the land in Survey No.430 and if necessary, the petitioner's land in Survey No.427/1A3A in the presence of the petitioner with the assistance of the Taluk Surveyor concerned and if there is any encroachment made by the petitioner in Survey No.430, the petitioner shall hand over the possession to the 4th respondent as per his undertaking, failing which, it is open to the 4th respondent to remove the encroachment without giving any further notice to the petitioner.

7.With the above direction, the Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

[D.K.K., J.] & [L.V.G., J.]

13.02.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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