



W.P.(MD)No.3853 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.10.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.3853 of 2021

and

W.M.P.(MD).No.3080 of 2021

M.Kasinathan

... Petitioner

Vs.

1.The District Collector
Madurai District, Madurai.

2.The Chief Engineer,
PWD, WRO,
Madurai Region,
Thallakulam,
Madurai.

3.The Superintending Engineer,
PWD, WRO,
Periyar Vaigai Basin Circle,
Madurai.

4.The Assistant Engineer,
PWD, WRO,
Periyar Vaigai Basin Circle,
Madurai.

...Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, forbearing the Respondents from illegally entering upon in to the petitioner's patta land comprised in Survey No.205/3 having extent of 69 cents in Kodimangalam Village, Madurai District for the purpose of dumping sand on the guise of river banks.

For Petitioner : Mr.M.Maran

For R-1 to R-4 : Ms.D.Farjana Ghoushia,
Special Government Pleader

ORDER

This Writ Petition has been filed for the issue of writ of mandamus forbearing the respondents from illegally entering upon the patta land belonging to the petitioner in Survey No.205/3 having an extent of 69 cents at Kodimangalam, Madurai District.

2. Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing on behalf of the respondents.

3. The case of the petitioner is that the subject property was purchased through a registered sale deed dated 05.09.2001 through Document No.4408 of 2001. The patta was also granted in favour of the



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petitioner in Patta No.1153. According to the petitioner, he is cultivating the land.

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4. The further case of the petitioner is that a check dam was constructed near Kodivery Village and on 15.10.2020, the officials had surveyed the lands near the Vaigai river banks and at that point of time, even the patta land belonging to the petitioner was surveyed. All of a sudden, the officials belonging to the Public Works Department told the petitioner that the extension of the river banks will be done by taking over the land belonging to the petitioner also. Hence, the petitioner apprehended that his patta lands will also be taken away for the expansion of the river banks. On this ground, the present writ petition has been filed before this Court.

5. The learned Special Government Pleader appearing on behalf of the respondents produced the entire records pertaining to the property and also the sketch. It is seen that the Public Works Department is in the process of extending the river banks of Vaigai river and they are forming the bund. On going through the same, it is seen that on either side



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of the petitioner's patta land, the bund has been formed pursuant to the extension of the river banks. That apart, the land of the petitioner is found very adjacent to the vaigai river. In any case, the authorities have permitted this land to be dealt with by registering the document and they have also issued patta to the petitioner. Therefore, the petitioner is now claiming right over the land and he wants to restrain the respondents from taking over the land without following the due process of law.

6. When this Court put a question to the learned Special Government Pleader as to whether any proceedings have been initiated for the cancellation of the patta given in favour of the petitioner, the learned Special Government Pleader submitted that the proceedings have already been initiated before the District Revenue Officer, Madurai and notice will be issued to the petitioner and after enquiry, necessary orders will be passed by the District Revenue Officer.

7. In the considered view of this Court, as on today, the petitioner is claiming right through a title deed and also a patta issued in his favour. If this land is to be taken over by the respondents, it can be



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only by following the due process of law. It cannot be forcibly taken away from the petitioner. Therefore, it will suffice, if a direction is issued to the respondents to follow the due process of law before any attempt is made to take over the subject property from the petitioner.

8. This Writ Petition is disposed of with the above directions.

No costs. Consequently, the connected miscellaneous petition is closed.

12.10.2023

NCC:yes/no

Index:yes/no

Internet:yes/no

tsg

To

1.The District Collector

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2.The Chief Engineer,

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Madurai Region,

Thallakulam, Madurai.

3.The Superintending Engineer,

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Periyar Vaigai Basin Circle, Madurai.

4.The Assistant Engineer,

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N.ANAND VENKATESH, J.

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