



W.P.(MD)No.6859 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 29.03.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.6859 of 2023

V.Tharmaseelan

... Petitioner

Vs.

1.The District Collector,
Dindigul District,
Dindigul.

2.The Revenue Divisional Officer,
O/o. The Revenue Divisional Office,
Dindigul,
Dindigul District.

3.The Tahsildar,
Taluk Office,
Nilakottai Taluk,
Dindigul District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, to direct the respondents 1 to 3 to rectify the mistakes crept in the revenue records relating to the mistakes crept in the revenue records relating to the stream (Odai) purported to be running through the lands comprised in Survey Nos.204, 205 & 206 of Pachamalaiyankottai Revenue



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Village, Nilakkottai Taluk, Dindigul District and to effect necessary changes as Agricultural lands.

For Petitioner :Mr.R.Murugan

For Respondents :Mr.K.Balasubramani,
Special Government Pleader

ORDER

Heard the learned counsel on either side.

2. One L.Pandikumari filed W.P.(MD)No.24101 of 2022 for directing the authorities to remove the encroachment in Survey No.204/1 at Pachamalayan Kottai Village, Nilakottai Taluk, Dindigul District. The said Writ Petition was disposed of by the Hon'ble Division Bench vide order dated 19.10.2022 in the following terms:-

“5.Considering the limited scope of the prayer now sought for by the petitioner, without expressing any opinion on the merits of the claim made by the petitioner either in the representation or in the affidavit filed in support of the writ petition, this Writ Petition is disposed of with a direction to the respondents 1 to 3 to consider the representation of the petitioner dated 30.09.2022 and pass appropriate orders on merits and in accordance with law. If there is any encroachment as claimed by the petitioner after issuing notice and conducting survey in the presence of the petitioner and all other parties concerned, the respondents 1 to 3 are directed to take necessary action for removal of



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encroachments in the aforesaid watercourse, after affording an opportunity of personal hearing to all the parties concerned and by following due process of law. Such an exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order. No costs.”

3. The case of the petitioner is that the said order was passed without notice to him. He would further allege that the authorities are attempting to dispossess him without due process of law. It is the further contention of the learned counsel appearing for the petitioner that no water body runs through the petition mentioned survey numbers and that if the revenue records reflect so, it is an error and the same has to be corrected. In this regard, the petitioner has given a representation. He wants this Court to direct the authorities to correct the mistake that has crept in the revenue records in respect of the petition mentioned land.

4. We are not inclined to admit the writ petition at this stage. The fact remains that the earlier Division Bench had issued a direction vide order dated 19.10.2022 in W.P.(MD)No.24101 of 2022. The said order sufficiently protects the rights of the petitioner. The authorities have been directed to cause removal of encroachments only after affording an opportunity of personal hearing to all the parties concerned and by following due process of law. It is stated by the learned Special Government Pleader that notice was served on the petitioner



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yesterday. We are certain that the authorities will conduct proper enquiry and pass final order and only in the event of finding that the petitioner has committed encroachment, they will cause its removal and not otherwise. In order to protect the rights of the petitioner, the competent authority will go into and consider the petitioner's contention that there is a mistake in the revenue record. A reasoned and speaking order will be passed. If it is adverse to the petitioner, it is always open to the petitioner to once again move this Court or any other forum for appropriate relief. We make it clear that the petitioner will be given breathing time to seek legal redress if any adverse order is passed. Even though the earlier writ petition is only in respect of Survey No.204/1, this order will encompass Survey No.205 as well as Survey No.206.

5. With this direction and observation, the Writ Petition is disposed of. No costs.

[G.R.S., J.] [B.P., J.]
29.03.2023

NCC : Yes / No
Internet : Yes / No
Index : Yes / No
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To

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Dindigul.
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