



WP(MD)No.13084 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 15.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.13084 of 2015

P.Ulagathal

... Petitioner

v.

1.The District Revenue Officer,
Sivagangai District,
Sivagangai.

2.The Tahsildar,
Karaikudi Taluk,
Sivagangai District.

3.The Deputy Tahsildar,
Karaikudi,
Sivagangai District.

4.The District Forest Officer,
Sivagangai District,
Sivagangai.

5.L.Ramasamy

... Respondents

[R.5 impleaded vide order dated 11.04.2023]



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Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorarified Mandamus calling for the records in pursuant to the impugned notice dated 27.02.2015 issued by the third respondent and quash the same and directing the respondents 1 to 3 to reclassify the land in S.No.110/6 in Amaravathipudur Village, Karaikudi Taluk, Sivagangai District from the Forest to Natham land and issue patta to the petitioner, based on the recommendations of the fourth respondent in Na.Ka.A-111/2003 dated 23.06.2003.

For Petitioner : Mr.T.Srinivasaraghavan

For Respondents : Mr.S.Saji Bino,
Special Government Pleader
for R.1 to R.4

Mr.R.M.Arun Swaminathan for R.5

ORDER

This writ petition is filed as against the notice issued by the third respondent under Section 7 of the Land Encroachment Act.



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WEB COP 2. According to the petitioner, he is in occupation of the property for a long time and he is entitled for patta.

3. Learned Special Government Pleader submitted that the petitioner is residing in S.No.110/6 in Amaravathipudur Village, Karaikudi Taluk, Sivagangai District and the said land is a Government Poromboke and she is in illegal occupation. The official respondents have identified the encroachments and issued notices to all the encroachers. In view of the pendency of this writ petition, they have not proceeded further and in the meantime, the number of encroachments increased from 40 to 147.

4. Learned Counsel for the fifth respondent submitted that the impugned notice has been issued pursuant to the orders of the Division Bench of this Court in WP(MD)No.5407 of 2000, dated 13.10.2008, which was filed on behalf of the villagers of Amaravathipudur, Karaikudi Taluk, for removal of encroachments in S.No.110/6. Pursuant to the orders of the Division Bench of this Court, the impugned notice has been issued in the year 2015, however, by



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referring the present writ petition, the authorities have not taken any action as against the encroachers. He also drew the attention of this Court to the observations made in the order dated 27.02.2015, which is extracted as under:-

“3.The grievance of the petitioner is that number of persons have encroached over the lands and respondents 2 to 4 though had knowledge of the same and are expected to be vigilant, they are hand-in-glove with the illegal encroachers, who have illegally started putting up pucca construction over the lands. Some of the land grabbers, about nine in number, have jointly filed a civil suit in OS.No.186 of 1995 on the file of the District Munsif Court, Karaikudi, for permanent injunction against the State Government; and two of their men have been impleaded as party-defendants. The second respondent District Collector, Sivagangai District has not taken any steps or interest, due to which, an ex-parte decree came to be passed on 01.09.1995 by the District Munsif Court, Karaikudi.”

5.This Court considered the rival submissions made and also perused the available materials.



6.The official respondents claim that the petitioner has occupied a Government Poromboke land and they have initiated action pursuant to the directions of this Court. This Court, though entertained this writ petition in the year 2015, has not granted any interim order. However, by referring the pendency of this writ petition, the official respondents have failed to proceed further and during the pendency of this writ petition, the number of encroachments have also been increased.

7.Under such circumstances, this writ petition is disposed of with the following directions:-

- i) the petitioner is permitted to offer her explanations, if any, within a period of two weeks from the date of receipt of a copy of this order;
- ii) the official respondents shall consider the representation and proceed further under the Land Encroachment Act;
- iii) in the event, if the official respondents holds that the petitioner is an encroacher, then necessary order for eviction has to be passed;
- iv) if the petitioner is eligible for consideration under the free house site scheme, the official respondents shall consider issuance of free house site



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patta in an alternative site;

WEB COPY v) the abovesaid actions have to be initiated as against all the encroachers, invariably;

vi) if the Department has suffered any decree, necessary appeal has to be filed within a period of four weeks from the date of receipt of a copy of this order; and

vii) in the event, if the official respondents failed to proceed further, it is open to the fifth respondent to file a contempt petition.

There shall be no order as to costs.

Index : Yes / No
NCC : Yes / No
gk

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To

1.The District Revenue Officer,
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Sivagangai.

2.The Tahsildar,
Karaikudi Taluk,
Sivagangai District.

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3. The Deputy Tahsildar,
Karaikudi,
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B.PUGALENDHI, J.

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