



W.P.(MD)No.2740 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.09.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.2740 of 2015

A.Arul Dhanaraj

... Petitioner

Vs.

1.The State Represented by
The Secretary,
Home Department,
Secretariat, Fort St. George,
Chennai.

2.The District Collector,
Theni District,
Theni.

3.The Thasildar,
Aandipatti,
Theni District.

4.The President,
Ponnampadugai Panchayat,
Theni District.

5.The Inspector of Police,
Mayiladumparai,
Theni District.

... Respondents



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Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 & 2 to pay compensation of Rs.5 Lakhs to the petitioner for the demolition of his house by the respondents 3 and 5 situated at third ward of Aranmanaipudur village, Andipatti Taluk, Theni District and consequently direct the respondents 1 and 2 to take action against the respondents 3 and 5 for abusing their power.

For Petitioner : Mr.K.Samidurai

For Respondents : Mr.N.Satheesh Kumar
Additional Government Pleader

ORDER

Heard the learned counsel appearing for the writ petitioner and the learned Additional Government Pleader appearing for the respondents.

2. The construction put up by the petitioner in Aranmanaipudur Village, Andipatti Taluk was demolished by the revenue authorities. Contending that the statutory procedure was not adopted, the petitioner seeks payment of compensation.

3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ



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petition. He relied on the decision reported in 1999 (1) CTC 1 (V.Arunagiri & Others Vs The Divisional Engineer) passed by the Division Bench of this Court. He called upon this Court to grant relief as prayed for.

4. The Tahsildar, Andipatti has filed counter affidavit and the learned Additional Government Pleader took me through its contents. The stand of the respondents is that the petitioner is a rank encroacher. The petition mentioned land comprised in Survey No.1687/7 is Government land and was required for public purpose. The petitioner was constructing a house and also intended to use it for religious purpose. This gave rise to law-and-order problem. That is why after intimating the petitioner, the demolition was carried out. The respondents seek dismissal of the writ petition.

5. I carefully considered the rival contentions and went through the materials on record.

6. The proposition laid down in the decision relied on by the learned counsel appearing for the petitioner is beyond cavil. The Hon'ble Division Bench had held even in the case of encroachers, the statutory



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formalities will have to be complied with. The learned counsel appearing for the petitioner would further contend that the notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 should have been issued followed by enquiry and then passing of order under Section 6 of the Act. The question is whether the respondents can be faulted and whether the petitioner is entitled to compensation.

7. The petitioner has not invoked the common law remedy of filing suit. He has filed this writ petition by invoking the jurisdiction under Article 226 of the Constitution of India. A person who seeks equity must do equity. The petitioner appears to be a resident of Madurai. He had put up a construction in Aranmanaipudur Village_which is in Andipatti Taluk. It is beyond dispute that the land on which the construction was put up by the petitioner is a Government land. The respondents submit that this land was required for educational purposes. The learned counsel appearing for the petitioner would draw my attention to the lease agreement entered into between the petitioner on the one hand and Muthan. I am not able to find a trace of title or interest in the land in the name of Muthan.



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8. Be that as it may, any construction can be put up only after getting clearance from the concerned authorities. More than anything else, when the petitioner had encroached on a Government land and had also put up an unauthorised construction, the authorities taking note on other aspects, chose to intervene immediately. The case law relied on by the learned counsel appearing for the petitioner may not really apply to the facts on hand. Before the Hon'ble Division Bench, the appellants contended that their respective fathers occupied the respective pieces of land some 30 years prior to the filing of the writ petitions. They constructed houses which had been assessed to property tax. They were enjoying electricity service connection. Where settled possession is sought to be interfered with, obviously the statutory procedure must be adopted. But in the case on hand the photographs indicate that the construction process was far from over. The authorities had also received complaint from certain organisations. In these circumstances, I cannot fault the jurisdictional Tahsildar for having carried out the impugned action for the following two reasons:

- a) The petitioner being an encroacher
- b) Putting up construction without prior approval from the District Collector as well as the planning authorities.

I am not inclined to grant relief.



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9. This writ petition stands dismissed. There shall be no order as to costs.

15.09.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
MGA

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G.R.SWAMINATHAN,J.

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