



W.P.(MD)No.20632 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.08.2023

CORAM:

THE HONOURABLE **MR.JUSTICE S.S.SUNDAR**

and

THE HONOURABLE **MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

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P.Selvam

... Petitioner

Vs.

1.The District Collector,
O/o.The District Collector,
Tiruchirappalli District,
Tiruchirappalli.

2.The Revenue Divisional Officer,
O/o.The Revenue Divisional Officer,
Musiri,
Tiruchirappalli District.

3.The Tahsildar,
O/o.the Tahsildar,
Thuraiyur,
Tiruchirappalli District.

4.The Inspector of Police,
Uppiliyapuram Police Station,
Tiruchirappalli District.

5.S.Vigneswaran

6.M.Murugesan

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus directing the respondents 1 to 3 to remove the encroachment made by 5th and 6th respondents in Survey No.320/18 situated at Vadakkupatti Village, Thuraiyur Taluk, Tiruchirappalli District on the basis of the report submitted by the third respondent vide



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Na.Ka.A1/01013/2021 dated 09.03.2022 and the proceedings of the second respondent vide Oo.Mu.A4/3106/2021 dated 10.06.2022 .

For Petitioner :Mr.D.Shanmugaraja Sethupathi
For R-1 to r-4 :Mr.J.K.Jayseelan,
Government Advocate

ORDER

(Order of the Court was made by **S.S.SUNDAR, J.**)

Heard Mr.D.Shanmugaraja Sethupathi, learned counsel for the petitioner and Mr.J.K.Jayaseelan, learned Government Advocate for respondents 1 to 4.

2. This Writ Petition is filed by the petitioner seeking for issuance of a Writ of Mandamus, directing the respondents 1 to 3 to remove the encroachment made by 5th and 6th respondents in Survey No.320/18 situated at Vadakkupatti Village, Thuraiyur Taluk, Tiruchirappalli District.

3. The case of the petitioner is that the property in Survey No.320/18 belongs to a public temple situated in the village. The private respondents 5 and 6 have encroached the land of the temple.

4. The learned counsel appearing for the petitioner relied upon the proceedings of the Tahsildhar, Thuraiyur Taluk, dated 09.03.2022,



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indicating that the property is classified as 'Grama Natham' and it is not assessed to tax. Stating that the Tahsildhar has opined that no patta was given to private individuals and that, the Tahsildar has recommended for granting patta in favour of the temple, the petitioner claims that the property is the property of temple.

5. However, the learned Government Advocate has produced the communication from the Tahsildhar, Thuraiyur, dated 23.08.2023, wherein it is informed that patta cannot be issued in favour of the temple as the property in Survey No.320/18 is classified as 'Sarkar Poramboke Kaali Natham' as per the natham settlement.

6. It is admitted that the subject property is in the residential area of the village. It is not stated anywhere that the property is the property of Government even according to the petitioner.

7. In such cricumstances, the petitioner cannot seek for issuance of a Mandamus to direct the revenue officials to take action for removal of encroachment. When the property is not a public property or poramboke land, the revenue officials have no jurisdiction to initiate proceedings for eviction of encroachment under the provisions of the Tamil Nadu Land Encroachment Act, 1905.



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8. From the averments made in the affidavit filed in support of this writ petition and the report of the Tahsildhar, it is seen that there is a dispute in relation to the property, between the temple and the private respondents. In such circumstances, this Court is not inclined to enterin this writ petition. Therefore, leaving it open to the petitioner to approach the civil Court to establish the right and seek appropriate relief, this writ petition is dismissed. No Costs.

[S.S.S.R., J.] [D.B.C., J.]
24.08.2023

Index : Yes / No
NCC : Yes / No
pm

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