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W.P.(MD) No.22082 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.09.2023

CORAM:

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR
and
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

**W.P.(MD) No.22082 of 2023
and
W.M.P.(MD) No.18409 of 2023**

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... Petitioner

-VS-

1.The District Collector
Trichy District

2.The Tahsildar
Manaparai Taluk
Trichy District

3.The Revenue Inspector
Manaparai Taluk
Trichy

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records of the impugned order, dated 23.08.2023, passed by the second respondent and quash the same as arbitrary, illegal and without jurisdiction and consequently direct the



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respondents to issue patta to the petitioner in respect of the land in S.No. 133/4, to an extent of 7 cents, which his house has been built.

For Petitioner : Mr.H.Lakshmi Shankar

For Respondents : Mr.M.Lingadurai
Special Government Pleader

ORDER

[Order of the Court was made by S.S.SUNDAR, J.]

Mr.M.Lingadurai, learned Special Government Pleader, takes notice for the respondents.

2. With the consent of both sides, this writ petition is taken up for final hearing at the admission stage itself.

3. This writ petition is filed for issuance of a writ of certiorarified mandamus to quash the order dated 23.08.2023, passed by the second respondent and to direct the respondents to issue patta to the petitioner in respect of the land comprised in Survey No.133/4, measuring an extent of 7 Cents.



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4. The impugned order is an order passed by the Tahsildar, under Section 6 of the Tamil Nadu Land Encroachment Act, 1905.

5. The petitioner states that he has constructed a small house in Survey No.133/4 of Pazhayakottai Village, Manapparai Taluk, Trichy District. Though the petitioner is paying property tax and has obtained electricity service connection, it is admitted by the petitioner that he is not the owner of the premises. He has applied for patta for the said property, on the basis of his possession. In the meanwhile, it appears that a third party, by name, K.Paramasivam filed a writ petition in W.P.(MD) No.897 of 2015 before this Court, on the ground that the property, which is in the encroachment of the petitioner herein, is a burial ground and therefore, the respondents should initiate action for removal of encroachment. The said writ petition was disposed of this Court, by order dated 14.02.2023, with a direction to the respondents to consider the representation of the petitioner therein. It is to be noted that the Block Development Officer, who is the fourth respondent in W.P.(MD) No.897 of 2015, filed a counter affidavit stating that the land in possession of the petitioner herein is an unobjectionable poramboke land.



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6. In the said circumstances, this Court is of the view that the representation of the petitioner for grant of patta should be considered by the District Collector / first respondent herein, in accordance with the Government Orders or the Revenue Standing Orders, which are in vogue. Till such time the representation of the petitioner is considered and disposed of, the respondents shall not initiate any proceedings under the Tamil Nadu Land Encroachment Act, 1905, as against the petitioner.

7. It is made clear that the above direction shall not be construed as a positive direction issued to the District Collector to grant patta to the petitioner. The request of the petitioner for grant of patta should be considered purely on merits and in accordance with law and also if the land in possession of the petitioner herein is an unobjectionable poramboke land, as stated by the Block Development Officer in the counter affidavit filed by him in W.P.(MD) No.897 of 2015 and also if the petitioner is entitled to get patta as per any Scheme in vogue. It is also made clear that once a decision is taken by the District Collector, the second respondent, thereafter, should act in accordance with law.



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8. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

[S.S.S.R., J.]

[D.B.C., J.]

12.09.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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To:

- 1.The District Collector,
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- 2.The Tahsildar,
Manaparai Taluk,
Trichy District.
- 3.The Revenue Inspector,
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