



W.P(MD)Nos.23786 to 23795 of 2017

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)Nos.23786 to 23795 of 2017
WMP(MD) Nos.19967, 19968,19969,19970,19971,19972,19973,
19974,19975 &19976 of 2017

W.P(MD)No.23786 of 2017:

P.Gagapathi

... Petitioner

Vs

- 1.The District Collector,
Madurai District,
Madurai.
- 2.The District Revenue Officer,
Madurai District,
Madurai.
- 3.The Revenue Divisional Officer,
Usilampatti,
Madurai District.
- 4.The Tahsildar,
Usilampatti,
Madurai District.



W.P(MD)Nos.23786 to 23795 of 2017

5.The Commissioner,
Usilampatti Municipality,
Madurai District.

6.The Assistant Divisional Engineer (Highways),
Department of Highways,
Government of Tamilnadu,
Travellers Bungalow,
Usilampatti,
Madurai District.

Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, forbearing from obstructing the petitioner from enjoying the subject property in Old Survey No.240/2 part, New Survey No.240/14, Town Survey No.57, Door No.95, Usilampatti Village, Usilampatti Taluk, Madurai District measuring 9.4 meters north to south on the east and on the west and 2.8 meters east to west on the north and on the south without due process of law.

For Petitioner : Mr.T.R.Jeyapalam
For R1 to R4 & R6 : Mr.J.K.Jayaseelan
Government Advocate
For R5 : Mr.K.Mahendran

COMMON ORDER

These writ petitions have been filed by the respective



W.P(MD)Nos.23786 to 23795 of 2017

petitioners for a Mandamus, forbearing the respondents from interfering with their possession of their properties.

2.The case of the petitioners is that they are having shops in Old Survey No.240/2, and Town Survey Nos. 52,53,54,56,57,58,59,60/1, 60/2 and 61 at Usilampatti to an extent of 0.00.24 Hectares. According to the petitioners, the subject lands, which were assessed as 2.8 x9.4 meters has been wrongly mentioned as 2.8 x 7.5 meters in the Town Survey Sketch and a Survey Sketch was issued by the Deputy Tahildar, Usilampatti on 15.03.2002. Based on the said survey sketch and a representation of the father of one the petitioners, the Tahsildar, Usilampatti Taluk, Madurai/the fourth respondent herein has issued a proceedings, dated 09.01.2006, directing the officials to change the entries in the revenue records as 9.4 meters instead of 7.5 meters. However, the respondents are attempting to vacate the petitioners from their land.



W.P(MD)Nos.23786 to 23795 of 2017

WEB COPY

3.Since the issue involved in all these writ petitions is interlinked, all these writ petitions are heard together and are disposed of by way of this common order.

4.Though these writ petitions were filed in the year 2017, no counter affidavit has been filed by the respondents so far. Therefore, this Court, by order dated 17.11.2023 has directed the respondents to file a counter affidavit to this writ petition. Accordingly, the Tahsildar, Usilampatti has filed a counter affidavit, which states as under:-

'6. I submit that during the town survey at Usilampatti, the property belong to the petitioners was numbered as T.S.Nos.52,53,54,56,57,58,60/1,60/2 and 62 and the north to south measurement was mentioned as 7.5 meters since the north to sought measurement of the building in the survey number measured 7.5 m only. The petitioners and some others who owned adjoining property to the property of the petitioners gave representation to the Tahsildar, Usilampatti requesting to correct the north to south measurement as per



W.P(MD)Nos.23786 to 23795 of 2017

natham survey settlement record. The Tahsildar, Usilampatti issued orders to correct the north to south measurement of above towns survey number as 9.4 m instead of 7.5m in the town survey records as per the order, dated 09.01.2006 in ROC No.00341/2006'.

The Tahsildar has also pointed out that the petitioners have encroached a portion of the highways road by putting a tin sheet roof over their respective buildings.

5.In reply to the counter affidavit filed by the Tahsildar, Usilampatti, the learned counsel appearing for the petitioners submits that if there is any encroachment by the petitioners as claimed by the Tahsildar, they are ready to remove the same by themselves.

6.In view of the specific stand taken by the Tahsildar, that an extent of land of the petitioner in north to south measurement is 9.4 meters and not 7.5 meters, this Court is of the view that no



W.P(MD)Nos.23786 to 23795 of 2017

further order is required to be passed in these writ petitions.

WEB COPY

However, considering the fact that the learned counsel for the petitioners has come forward to remove the encroachments, if any, made by the petitioners on their own, this Court, by order dated 28.11.2023 directed the Tahsildar to conduct a survey along with the Surveyor in the presence of the petitioner on 02.12.2023. A further direction was also issued that if any encroachments have been found, the petitioners shall remove the same forthwith and report before this Court.

7.Today(20.12.2023), when these writ petitions are taken up for hearing, the learned Government Advocate has produced a letter stating that subsequent to the orders of this Court, a survey was conducted and it was ascertained that the claim of the petitioners that the extent of the property 9.4 meters has been confirmed.



W.P(MD)Nos.23786 to 23795 of 2017

8.Recording the above submission made by the learned

Government Advocate, these writ petitions are closed. No costs.

Consequently, connected Miscellaneous Petitions are closed.

20.12.2023

NCC:Yes/No

Index:Yes/No

Internet:Yes

vrn



W.P(MD)Nos.23786 to 23795 of 2017

To
WEB COPY

- 1.The District Collector,
Madurai District,
Madurai.
- 2.The District Revenue Officer,
Madurai District,
Madurai.
- 3.The Revenue Divisional Officer,
Usilampatti,
Madurai District.
- 4.The Tahsildar,
Usilampatti,
Madurai District.
- 5.The Commissioner,
Usilampatti Municipality,
Madurai District.
- 6.The Assistant Divisional Engineer (Highways),
Department of Highways,
Government of Tamilnadu,
Travellers Bungalow,
Usilampatti,
Madurai District.



WEB COPY



W.P(MD)Nos.23786 to 23795 of 2017

B.PUGALENDHI, J.

vrn

Common Order made in
W.P(MD)Nos.23786 to 23795 of 2017
WMP(MD) Nos.19967, 19968,19969,19970,19971,19972,19973,
19974,19975 &19976 of 2017

20.12.2023