



W.P.No.10241 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2024

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.10241 of 2020
and
W.M.P.No.12453 of 2020

Murugan @ K.Murugesan

... Petitioner

Vs.

1. The District Collector,
Dharmapuri.
2. The Executive Engineer,
Public Works Department,
Dharmapuri.
3. The Assistant Divisional Engineer,
Public Works Department,
Palacode, Dharmapuri District.
4. The Tahsildar,
Thenkanikottai District,
Dharmapuri District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the respondents 2 and 3



W.P.No.10241 of 2020

herein, from in anyway evicting the petitioner or removing the coconut trees, mango trees, etc., either by using JCB Machines or by any other earth moving machines, from the petitioner's agricultural lands measuring 40.5 Ares (1 Acre) forming part of Old S.No.213/2 of Chinna Goundanahalli Revenue Village, Palacode Taluk, within the Royakotta Sub Registration District.

For Petitioner : Mr. R.Selvakumar

For Respondents : Mr. P.Balathandayutham,
Special Government Pleader

ORDER

The writ on hand has been instituted to forbear the respondents 2 and 3 from anyway evicting the petitioner or removing the coconut trees, mango trees, etc., either by using JCB Machines or by any other earth moving machines, from the petitioner's agricultural lands measuring 40.5 Ares (1 Acre) forming part of Old S.No.213/2 of Chinna Goundanahalli Revenue Village, Palacode Taluk, within the Royakotta Sub-Registration District.

2. The petitioner states that he is the owner of the agricultural



W.P.No.10241 of 2020

lands measuring 40.5 Ares (1 Acre) in Old S.No.213/2A of Chinna Goundanahalli Revenue Village, Palacode Taluk, Dharmapuri District.

The petitioner purchased the said agricultural lands for the valuable sale consideration. While so, the respondents have interfered with the peaceful possession and enjoyment of the said property, which prompted the petitioner to institute the present writ proceedings.

3. The learned counsel for the petitioner contended that the subject property in S.No.213/2A of Chinna Goundanahalli Revenue Village, Palacode Taluk is a patta land and the authorities are attempting to infringe the property right of the petitioner by way of an interference.

4. The learned Special Government Pleader appearing for the respondents drew the attention of this Court with reference to the counter-affidavit filed by the respondents. The counter affidavit filed by the Executive Engineer, Water Resources Organization, Upper Pannaiyar Basin Division, Dharmapuri states that on 07.05.2008, vide Document No.1129 of 2008, the petitioner had purchased the land from one



W.P.No.10241 of 2020

Mr.Muniyappan to an extent of 0.40.5 acres in Survey No.213/2 out of 1.49.5 acres. Later on, it was sub-divided as 213/2A, which was suppressed by the petitioner in this Writ Petition. Therefore, the property belongs to the petitioner situated in S.No. 213/2A, which is adjacent to S.No.213/2B is a Government Eri Poromboke land (Vaikal). The said land is under the maintenance of the Public Works Department.

5. The petitioner obstructed the respondents to inspect the Government Eri Poromboke land and to conduct survey. As per the revenue records, the properties in S.No. 213/2A is classified as “Eri Poromboke” and therefore, the present Writ Petition is to be rejected.

6. In para 9 and 10 of the counter-affidavit, the respondents have stated as follows:-

“ 9. It is submitted that the it is not true to state that the 2nd respondent and 3rd respondent never threatened the petitioner and did not do any such acts and no intend to trespass the



WEB COPY



W.P.No.10241 of 2020

petitioner land in S.No.213/2A. The petitioner is suppressed the facts that the above said land in Old S.No.213/2 has been converted to other parties and made several sub division out of 1.49.5 Acre. The petitioner land in S.No.213/2A only which is adjacent to the S.No.213/2B which is classified as Government Eri Poromboke land (Vaaikaal) as a water body. It is further submitted that the 3rd respondent has sent a letter Ka.En.Koo.8/2020/Uv.Po/Panchanjapalli/ dated 18.09.2018 stating that under Repair, Renovation & Restoration (RRR) scheme 2020-21, addressing to the Tahsildar, Palacode and requesting them to survey the Thoolichetty Eri for removal the encroachment in and around Eri poromboke land.

10. It is further humbly submits that only the



WEB COPY



W.P.No.10241 of 2020

petitioner is attempting to encroach the Government land in S.No.213/2B which is classified as Eri Poromboke (Vaaikaal) and not letting the 2nd and 3rd respondents to inspect and attempt to survey the Government Eri Poromboke land (Vaaikaal) as a water body in S.No.213/2B to an extent of 1.43.5. Hectare as stated in the “A” register. The petitioner has approached this Hon'ble Court by suppressing the above facts and liable to be dismiss on devoid of merits.”

7. In view of the fact that the petitioner owns a land in S.No. 213/2A and the remaining properties are classified as Government Eri Poromboke, the alleged obstruction, as raised by the petitioner is baseless and presumptive. The authorities competent are empowered to conduct survey even under the provisions of the Tamil Nadu Survey and Boundaries Act, 1923 and demarcate the Government Eri Poromboke for



W.P.No.10241 of 2020

the purpose of its maintenance, as per the regulations in force. Therefore, there is no impediment for the respondents to conduct survey and earmark the Government Eri Poromboke lands for the purpose of preserving water bodies in that locality for the benefit of the people. If necessary, the respondents shall conduct a detailed survey to ascertain the lands belongs to the petitioner and in respect of the Government Eri Poromboke land. As far as the claim of the writ petitioner is concerned, it is misconceived and therefore, the petitioner is not entitled for the relief as such sought for in the present Writ Petition.

8. With these observations, this Writ Petition stands dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

03.01.2024

skr
Index : Yes
Speaking order

To

1. The District Collector,



W.P.No.10241 of 2020

Dharmapuri.

2. The Executive Engineer,
Public Works Department,
Dharmapuri.
3. The Assistant Divisional Engineer,
Public Works Department,
Palacode, Dharmapuri District.
4. The Tahsildar,
Thenkanikottai District,
Dharmapuri District.



WEB COPY



W.P.No.10241 of 2020

S.M.SUBRAMANIAM, J.

skr

W.P.No.10241 of 2020



WEB COPY



W.P.No.10241 of 2020

03.01.2024