



WP No.18002 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2024

CORAM

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P. No.18002 of 2022

K.Karthikeyan

... Petitioner

Versus

1.The Secretary,
Public Works Department,
Government of Tamil Nadu,
Fort St. George, Chennai 600 009.

2.The Assistant Engineer,
Public Works Department,
Water Resource Department,
Irrigation Division, Padappai,
Chennai 601 301.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents to restore the petitioner in possession of the property an extent of 4752 Sq.ft. Comprised in Survey No.257/1 & 257/3, Chittlapakkam Village, Chittlapakkam Town Panchayath, Tambaram Taluk, Chengalpet District now Kancheepuram District situated at No.3/5, Sathya Street, East Tambaram, Chennai 600 059 and consequently direct the respondents to pay compensation/damages for the building demolished illegally.

For Petitioner : Mr.R.Udayakumar

For Respondents : Mr.Vadivelu Deenadayalan
Additional Government Pleader

ORDER



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The Writ Petition is filed seeking for a direction to the respondents to restore the petitioner in possession of the property an extent of 4752 Sq.ft. Comprised in Survey No.257/1 & 257/3, Chittlapakkam Village, Chittlapakkam Town Panchayath, Tambaram Taluk, Chengalpet District now Kancheepuram District situated at No.3/5, Sathya Street, East Tambaram, Chennai 600 059 and consequently to direct the respondents to pay compensation/damages for the building demolished illegally.

2. The learned counsel appearing for the petitioner submitted that the petitioner is in possession and enjoyment of the house property to an extent of 4752 Sq.Ft. Comprised in Survey Nos.257/1 & 257/3, Chittlapakkam Village, Chittlapakkam Town Panchayath, Tambaram Taluk, Chengalpet District now Kancheepuram District. The said property was purchased by the petitioner's mother Mrs.Lakshmiammal from one Krishnan Nair under a registered sale deed dated 27.12.1971, registered as Document No:4560/1971 at the Sub Registrar Office, Tambaram. Thereafter, the petitioner's mother obtained a patta in Survey No.257/3 and lived with the family from the date of purchase without any hindrance. Electricity board has also provided connection in SC No:283/107/120 and family ration card was also issued in 02/G/0574081. The petitioner's mother died intestate on 04.12.1999, leaving behind 7 legal heirs, including the petitioner. While so, all of a sudden, the 2nd respondent issued a



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show cause notice dated 23.09.2020 stating as if the petitioner had encroached certain lands in Survey No.256/1 and claimed that the said Survey Number is Eri Poramboke, to which immediately the petitioner has sent a reply letter dated 29.09.2020 stating that the petitioner is not in occupation of Survey No:256/1 and his family is only in occupation of land in Survey Nos:257/1 & 257/3 and enclosed all relevant documents for their perusal. However, without perusing the same, the respondents demolished the entire building and has taken possession. Thereby, the Writ Petition is filed with the above prayer.

3. Learned counsel for the petitioner submitted that admittedly, the petitioner's vendor occupied the Government Poramboke land which is mentioned in the sale deed itself and based on the long possession, he executed a sale deed in favour of the petitioner's mother by the above said document and the petitioner's mother enjoyed the property and subsequently, the property was immigrated by the petitioner and the petitioner is in enjoyment of the property for more than 15 years. Hence, all of a sudden, the respondents cannot takeover the possession without any process of law. Even a bare perusal of the Tamil Nadu Protection of Tanks and Eviction of Encroachments Act, 2007 makes it clear that for creating eviction, there must be an adjudication by the competent authority in case of Section 3 of the Tamil Nadu Protection of Tanks and Eviction of Encroachments Act, 2007. However, without following such



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provision contemplated under the Tamil Nadu Protection of Tanks and Eviction of Encroachments Act, 2007, all of a sudden mechanically they have taken possession and removed the petitioner's construction, which is not certain. Accordingly, he prayed for entitlement of compensation and to restore possession. He further added that if the respondents are not able to restore possession, give alternate site to the petitioner enabling them to continue enjoying the property since the petitioner is the landlord. Accordingly, he prayed for allowing the Writ Petition.

4. Per contra, the learned Additional Government Pleader appearing for the respondents would submit that admittedly, the petitioner claim that he is the owner of the property in Survey Nos.257/1 and 257/3 and as on date though the petitioner claim that he has purchased the property from one Krishnan Nair in the year 1971, even on bare perusal of the above said sale deed, it is clear that the said Krishnan Nair had encroached the Government Poramboke property and alienated the property in favour of the petitioner's mother. When a vendor itself not possessed a valid title and the subsequent sale deed executed is invalid sale deed and it is not binding on the respondents. Further, as per A Register, there is no Survey No. in respect of 257/3 and only one Survey No.

available is Survey No.257/1 and the same is classified as “ஏறி உள்வாய்”



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water body. The petitioner's grievance is petitioner alone is removed from Survey No.257/1 and all other encroachers were not removed. However, the respondents undertake before this Court that any encroachments made in Survey No.257/1 all those persons will be removed and accordingly, he prayed for dismissal.

5. Heard the learned counsel on both sides and perused the entire materials available on record.

6. The fact in the present case is the petitioner claimed that he purchased the property in respect of Survey Nos.257/1 and 257/3 from one Krishnan Nair in the year 1971. This Court perused the sale deed. On perusal of the same, it is seen that the said Krishnan Nair did not possess any title in respect of the property and he only encroached the Government Poromboke land. In view of the long possession, he executed a sale deed in favour of the petitioner's mother. When the petitioner's vendor himself has not possessed the valid title, the petitioner cannot claim possessing title in view of the sale deed and further, this Court perused the A Register, which reveals that Survey No.257/1 to an extent of 0.28.5 hectares is classified as “ஏறி உள்வாய்” water body and no Survey Number is available in respect of Survey No.257/3 in Chitlapakkam



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Village. Since the petitioner has not established the title before this Court, hence the order for repossession and claiming compensation as against the respondents is not sustainable and accordingly, the Writ Petition is **dismissed**. However, liberty is granted to the petitioner to make an appropriate representation to the respondents for providing the alternate sites. If any such provision is available for providing alternate site, the respondents may consider the same and pass orders in accordance with law. No costs.

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Index : Yes/No
Internet : Yes/No
gsa

To

1.The Secretary,
Public Works Department,
Government of Tamil Nadu,
Fort St. George, Chennai 600 009.

2.The Assistant Engineer,
Public Works Department,
Water Resource Department,
Irrigation Division, Padappai,
Chennai 601 301.



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M. DHANDAPANI, J

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