



WEB COPY



W.P.No.17414 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2024

CORAM

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
and**

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.P.No.17414 of 2019

P.S.Unnikrishnan

... Petitioner

Vs.

1. The Chief Executive Officer,
Cantonment Board,
St. Thomas Mount,
Chennai – 600 016.

2. The Tahsildar, Alandur Taluk,
St. Thomas Mount,
Chennai – 600 016.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st respondent to handover possession of the petitioner's property to an extent of 360 sq.ft. in old Survey No.177/1A and new Survey No.177/1A1 [Cantonment GLRS No.264, at No.122, Nandambakkam Village [St.Thomas Mount Cantonment Area]], that has been encroached upon by the 1st respondent and indicated in “Green” in the FMB sketch issued by the Revenue Department after the survey conducted on 15.03.2019.

For Petitioner
For R1

: Mr.B.Balachander
: Ms.A.Rexy Josephine Mary



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For R2

for Mr.C.Mohan
for M/s.King and Partridge
: Mr.A.Selvendran,
Special Government Pleader

ORDER

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

The Writ of Mandamus has been instituted to direct the 1st respondent to handover possession of the petitioner's property to an extent of 360 sq.ft. in old Survey No.177/1A and new Survey No.177/1A1 [Cantonment GLRS No.264, at No.122, Nandambakkam Village (St.Thomas Mount Cantonment Area)] that has been encroached upon by the 1st respondent and indicated in “Green” in the FMB sketch issued by the Revenue Department after the survey conducted on 15.03.2019.

2. The learned counsel for the petitioner, Mr.V.Balachander would submit that the 1st respondent has encroached upon the lands belongs to the petitioner to an extent of 360 sq.ft. The survey conducted by the 1st respondent revealed that the 1st respondent / Contonment Board has encroached upon the subject land. The petitioner submitted a representation



to the 1st respondent to hand over the subject land to the petitioner. Since no action has been taken, the Writ Petition came to be instituted.

3. The learned counsel appearing on behalf of the 1st respondent would oppose the said contention by stating that as per the extract from the General Land Register, the subject land belongs to Contonment Board. It is a military land and therefore, the relief, as such sought for in the present Writ Petition is to be rejected.

4. In support of the said contention, the respondents would rely on the judgment of the Hon'ble Supreme Court of India in the case of ***Union of India and others -vs- Robert Zomawia Street*** reported in **AIR 2014 SC 2721**. In paragraph 7, the Hon'ble Supreme Court of India made the following observations:-

“ 7. Mr. Mohan Parasaran, learned Solicitor General appearing on behalf of the Defendants-appellants submits that entries made in the GLR maintained under Cantonment Land Administration Rules is conclusive evidence of title. In support of his contention, Mr. Parasaran places reliance on a judgment of this court in Union of India v. Ibrahim Uddin, (2012) 8 SCC 148 and our attention has been drawn to the following paragraph:

"83. The General Land Register and other documents maintained by the Cantonment



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Board under the Cantonment Act, 1924 the Rules made thereunder are public documents and the certified copies of the same are admissible in evidence in view of the provisions of Section 65 with Section 74 the Evidence Act. It is settled legal position that the entries made in the General Land Register maintained under the Cantonment Land Administration Rules is conclusive evidence of title.””

5. It is not in dispute that the survey was conducted by the 1st respondent in the presence of petitioner. After conducting survey, the petitioner claims that the portion of the lands belongs to him is encroached upon. Such disputed facts between the parties cannot be adjudicated in a writ proceedings. Writ Court cannot form an opinion as to whether the 1st respondent has encroached the land or not.

6. As per the extract from the General Land Register, the 1st respondent claiming the subject land is a Contonment Board land and the petitioner claims that the 360 sq.ft of land belongs to him. Therefore, the petitioner is at liberty to approach the competent Civil Court of law for the purpose of establishing the title in respect of the entire area which he



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claims, by producing the documents and evidences. In the event of filing any such Suit, the period during which the Writ Petition was pending before the High Court is to be taken into consideration for condoning delay, if any.

7. Accordingly, the Writ Petition stands disposed of. No costs.

(S.M.S.,J.) (K.R.S.,J.)
19.02.2024

skr

Index : Yes

Speaking order

To

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St. Thomas Mount, Chennai – 600 016.



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