



W.P.No.16299 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.07.2024

CORAM :

THE HON'BLE MR. D.KRISHNAKUMAR, ACTING CHIEF JUSTICE

and

THE HONOURABLE MR.JUSTICE K. KUMARESH BABU

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S.Boominathan

... Petitioner

Vs.

1. The Land Commissioner,
Ezhilagam, Chepauk, Chennai 600 005.

2. The District Collector,
Thiruvaur District.

3. The Commissioner, Mannargudi Municipality,
Mannargudi.

4. The Tahsildar, Mannargudi Taluk,
Mannargudi.

5. V.M.Kaliaperumal

... Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Mandamus, directing the respondents 1 to 4 to



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remove the encroachment in the public road at survey No.4300, which has been classified as government poramboke road in the revenue records, based on the communication of the third respondent dated 10.05.2024 in Na.Ka.No.1516/2023/C3, within a time frame fixed by this Court.

For Petitioner : Ms.Hema Sampath, Senior Counsel
for Mr.M.Saravanan

For Respondents : Mr.A.Edwin Prabakar, State Government Pleader
for respondents 1 , 2 and 4
Mr.P.Srinivas for third respondent
Mr.K.Sathivel for fifth respondent

ORDER

(Order of the Court was made by the Hon'ble Acting Chief Justice)

This writ petition has been filed to direct the respondents 1 to 4 to remove the encroachment in the public road at survey No.4300, which has been classified as government poramboke road in the revenue records, based on the communication of the third respondent dated 10.05.2024 in Na.Ka.No.1516/2023/C3, within a time frame fixed by this Court.



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2. The petitioner is owner of the property at Old S.No.4283, New S.No.11/2, to an extent of 14,985 sq.ft., in Mannargudi, Thiruvarur District and he purchased the said property, vide sale deed dated 25.09.2023. The land in Survey No.4300, Mannargudi, which is situate on the north and west to his property, is a government poromboke land, classified as pathway (vazhithadam) and the said road is being used by public and also the residents in and around the area. The fifth respondent has attempted to put up fencing on the said road to prevent the free ingress and egress of the petitioner to his property and in this regard, already he lodged a complaint before the Mannargudi Town Police Station in CSR No.1305/2023, dated 26.12.2023.

2.1. In the revenue records, the said land in S.No.4300, to an extent of 12,195 sq.ft. (0.11.33 hectares) is shown as " Road ", however, the fifth respondent, in collusion with the officials concerned has obtained sub division of the said land as S.No.4300/2 and obtained patta in his favour to an extent of 9234 sq.ft. Subsequently, in the revenue records, S.No.4300/2 is shown in the name of the fifth respondent and new Survey Number is given as 213.



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2.3 The petitioner came to know that the fifth respondent, claiming as if he is the owner of the above property has obtained exparte decree for bare injunction against the respondents 2 to 4 in O.S.No.102/2012. The petitioner already given a representation dated 19.03.2024 to the respondents and in this regard, the third respondent sent a communication dated 10.05.2024 to the petitioner stating that they have already completed the survey through town survey inspector, based on the documents and also issued notice to the encroacher. However, the encroachment shall be removed at the earliest and hence this writ petition has been filed.

3. The learned State Government Pleader appearing for the respondents 1 to 4 submitted that, the Revenue Divisional Officer has initiated suo-motu proceedings, as against the patta granted to the third parties with respect of government lands and issued notice to the authorities concerned for cancellation of patta. The petitioner as well as the parties concerned were appeared before the Revenue Divisional Officer and now, enquiry is pending.



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4. The learned counsel for the fifth respondent submitted that, the fifth respondent has not encroached any road, comprised in survey No.4300/1, as alleged by the writ petitioner. He further submitted that the adjacent land in S.No.4300/2 was classified as assessed waste land, which was reflected in the Settlement Register for Municipal Towns and the said lands were in possession of the vendors of the fifth respondent and rough patta was also granted to them in respect of the above lands, in accordance with G.O.(1D) No.103, (Revenue SS.II(1) Department), dated 01.03.2007. Therefore, without properly analyzing the entire facts and records, the petitioner has filed the writ petition and hence, he seeks for dismissal of the writ petition.

5. Heard the learned counsel appearing for the parties and we have perused the materials on record.

6. According to the petitioner, the land in question is a government puramboke road; subsequently it was subdivided and granted patta in favour of the fifth respondent. The District Collector, Thiruvarur District/second



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respondent has stated in the counter affidavit that, in the Town Survey Register, the original classification of the land with regard to survey No.4300/2 was "Government Punjai Assessed Waste", but it has been changed as " Rayat Punjai", thereby the entries of the land was made in favour of the vendors of the fifth respondent and patta was also granted to the fifth respondent. The contention of the official respondents is that, action has been initiated to cancel the patta issued by the Assistant Director of Land Survey in favour of the fifth respondent and further notice was also sent to the petitioner as well as the fifth respondent to be present before the Revenue Divisional Officer for enquiry along with all available records and documents.

7. It is denied by the fifth respondent that he has not encroached any government land as alleged by the petitioner and patta was granted in favour of him, in accordance with G.O.(1D) No.103 (Revenue SS.II (1) Department) dated 0103.2007. Further, with regard to the disputed property, the fifth respondent had obtained bare injunction order as against the official respondents in O.S.No.102/2012, dated 16.08.2013.



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8. Considering all the above facts and also taking into account the fact that enquiry with regard to the disputed property is pending before the Revenue Divisional Officer, we inclined to pass the following order.

i) The petitioner and the fifth respondent shall co-operate for enquiry before the Revenue Divisional Officer along with the documents available with them.

ii) The petitioner is also at liberty to make an Appeal or Representation before the Revenue Divisional Officer, with regard to the granting of patta to the fifth respondent, in respect of the property in question, within a period of two weeks from the date of receipt of a copy of this order.

iii) On such Appeal or Representation being received, the Revenue Divisional Officer is directed to consider the same and pass appropriate orders, in accordance with law, after affording opportunities to the parties concerned, within a period of twelve weeks from the date of receipt of such appeal or representation.



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9. With the above direction, this writ petition is disposed of. No costs.

(D.K.K., A.CJ.)

(K.B.J.)

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Internet: Yes/No

Index : Yes/No

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To

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THE HON'BLE ACTING CHIEF JUSTICE

and

K. KUMARESH BABU, J.

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