



W.P.No. 38317 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.12.2024

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No. 38317 of 2024

M.Muthusamy

...Petitioner

Vs.

1. The District Collector,
District Collectorate,
Coimbatore District,
Coimbatore 641 018.
- 2 The District Forest Officer,
Coimbatore,
Coimbatore District 641 002.
3. The Tahsildar,
Coimbatore South Taluk,
Coimbatore 641 018

...Respondent

Prayer: Writ Petition is filed under Article 226 of the constitution of India praying to issue a Writ of Mandamus directing the respondents 1 to 3 not to take any coercive actions against the petitioner in



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dispossessing the petitioner from his land without following due process of law and consequently to issue patta in favour of the petitioner relating to land in Survey No.389/22 pursuant to the petitioner's representation dated 20.11.2024.

For Petitioner : Mr.V.I.Prashanth
For Respondent : Mr.A.Selvendran
Special Government Pleader

ORDER

The petitioner has filed this writ petition for a mandamus directing the respondents 1 to 3 not to take any coercive action against the petitioner in dispossessing him from his land without following due process of law and consequently to issue a patta in favour of the petitioner relating to the land in Survey No.389/22 pursuant to the petitioner's representation dated 20.11.2024.

2. The petitioner would submit that he has been cultivating in the land comprised in Survey No.389/22, Thenkarai Village, Coimbatore South Taluk, for over 60 years. The said land is a Natham Poromboke and he has been using it as a cattle yard and has



25 tamarind trees. His livelihood is based on the income derived from the said land. It is the contention of the petitioner that the Village Administrative Officer and the District Forest Officer had attempted to dispossess him from the said land and therefore, he had filed a suit O.S.No.1838 of 2005 on the file of the I Additional District Munsif, Coimbatore, for a permanent injunction and for a consequential direction to issue a patta in his name. The suit was partly decreed in as much as the Court had granted the relief of injunction and had denied the relief of mandatory injunction for issuing the patta.

3. Despite the order of the Civil Court, the Revenue Officials and the District Forest Officer had continued to harass the petitioner and had tried to enter into possession of the property. Therefore, the petitioner had filed W.P.No.17288 of 2016 before this Court seeking a mandamus to forbear the respondents from interfering with the peaceful possession and enjoyment of his property. The writ petition was disposed of by order dated 10.06.2016 in which the Division



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Bench of this Court had held that the revenue authorities cannot adopt coercive measures to remove the petitioner and that they can only evict him by due process of law, since he is protected by the decree of a civil Court.

4. The petitioner would submit that despite the above observations, the respondents have been harassing the petitioner to evict the petitioner from the possession of the property. However, all of a sudden, the revenue officials had entered the premises and cut down the trees. This had happened after the filing of this writ by the petitioner.

5. A perusal of the records would clearly show that the petitioner had filed the suit O.S.No.1838 of 2005 for a declaration that the petitioner is entitled to a patta in respect of the property in question and for an injunction restraining the respondents 1 and 3 herein and their men, from interfering with the petitioner's peaceful



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possession and enjoyment of the property. After contest, the respondents had taken a stand that the property in question was not a Natham property, but it was entered as “Forest Official Quarters” in the revenue records and they would contend that there are no records to show that the petitioner is in possession of the same. However, after trial, the Court had held that the petitioner is in possession of the property and that he should not be dispossessed except by due process of law. With reference to the declaration of patta, the same was turned down. Further, the petitioner's right to be in possession of the property, till he was evicted by due process of law, was once again reiterated by this Court in W.P.No.17288 of 2016, wherein this Court had observed in paragraph 5 as follows:

“5.Considering the facts and circumstances of the case, we are of the view that once a decree has been obtained by the petitioner by way of permanent injunction, then necessarily, the respondent authorities cannot try to take away the right created to the petitioner by way of judgment/decreed of the Court and they must



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necessarily approach the Court of law and get appropriate orders expressing their difficulty or they may have negotiation with the petitioner or they may provide alternative land to protect the interest of the petitioner.”

Despite the orders of the Civil Court and the Division Bench of this Court, the respondents, without resorting to evicting the petitioner by due process of law, have taken law into their hands and by using their authority as government servants have forcibly entered the property of the petitioner and have removed trees. The photographs which have been produced for the scrutiny of this Court clearly show uniformed personnel standing guard during this illegal activity.

6. Accordingly, this writ petition is allowed. Since this order has been passed in the presence of Mr.Selvendran, learned Special Government Pleader appearing for the respondents, he shall forthwith give necessary instructions to the respondents that they are restrained from entering the premises in question until such time as they initiate proceedings in the manner known to law. No costs.



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Index : Yes/No

Internet : Yes/No

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