



W.P.(MD) No.220 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 08.01.2024

CORAM:

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

W.P.(MD) No.220 of 2024

and

W.M.P.(MD) Nos.237 & 238 of 2024

R. Balaji

... Petitioner

-VS-

1. The District Collector,
Collector Office,
Dindigul District.

2. The District Revenue Officer,
Dindigul,
Dindigul District.

3. The Revenue Divisional Officer,
Revenue Divisional Office,
Dindigul, Dindigul District.

4. The Tahsildar,
Aathur Taluk,
Dindigul District.

... Respondents

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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari to call for the records pertaining to the impugned order dated 05.12.2023 in Na.Ka.No.578017/2023/D2 issued by the 1st Respondent and to quash the same as illegal.

For Petitioner : Mr.S.Deenadhayalan

For Respondents : Mr.N.GA.Natraj
Government Advocate

ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

This Writ Petition has been filed to quash the impugned order dated 05.12.2023 passed by the 1st respondent in Na.Ka.No. 578017/2023/D2.

2. By consent, this Writ Petition is taken up for final disposal.

3. The petitioner's mother Venkitakrishnammal owned her



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ancestral property belongs to Survey Nos.1405/1, 1405/2, 1406 to an extent about 3.78 cents. The petitioner's mother had executed a registered Will in favour of the petitioner. The petitioner's mother died on 11.08.2005 and thereafter, the petitioner was continuing the peaceful possession and enjoyment with proper title.

4. The case of the petitioner is that in the aforesaid property, the petitioner has constructed school buildings and he is running a school in Survey No.1406 and the petitioner is the Correspondent of that school and the same is registered in the name of Nagalakshmi Educational Trust and he was in possession from 1950 till date. According to the petitioner, the aforesaid land is classified as Natham land. Therefore, the respondent cannot have any right over the property as per the revenue standing order. The said contention of the petitioner has not been considered by the authorities in proper perspective. Therefore, challenging the impugned order passed by the authority, the present Writ Petition is filed.

5. The learned Government Advocate appearing for the respondents would strongly object the aforesaid contention raised by the



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learned counsel for the petitioner. He would submit that "A" register shows that the aforesaid land is a "Kalam" and now it is classified as Natham poramboke and the petitioner is not having any vested right to claim the said property for running the said school. He would further submit that the aforesaid land was obtained for residential purpose and the same is used for running the school, which cannot be permitted. He would also state that a suit in O.S.No.76 of 2023 was filed for declaration and the same is pending. It is his further submission that there is a specific bar under Section 15 of the Land Encroachment Act to institute the suit and hence, there is no merit in the present Writ Petition. He prays for dismissal.

6. We have given our anxious consideration to the submissions made on either side and perused the materials available on record.

7. On perusal of "A" register, which has been filed in typed set of papers, it is seen that the property comprising in Survey No.1406 is classified as "Kalam" and the petitioner has been in possession and

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enjoyment of the property right from the inception of the school in the aforesaid land. Subsequently, the 1st respondent has passed an order by rejecting the claim of the petitioner that the said property is not classified as Natham land. In the Revenue Divisional Officer's proceedings in Na.Ka.No.9611/2000/B dated 23.11.2000, T.K.Na.Ka.C.2/66430/01C2 dated 21.12.2001, the land is classified as "Sarkar Poramboke Natham". They also assigned the land to 7 landless persons for assignment of the house site patta and therefore, the said property was claimed as "Natham". Hence, a detailed order has been passed by stating that the aforesaid land is encroached by the petitioner to an extent of 34.5 cents.

8. Considering the facts and circumstances of the case, we are of the view that O.S.No.96 of 2023 cannot be entertained in the light of the decision of the Division Bench of this Court that when there is a specific bar under Section 15 of the Land Encroachment Act, no suit can be entertained. Despite the orders have been passed by this Court not to entertain civil suit when the proceedings under the Land Encroachment Act is pending before the authorities, the suit is filed in the year 2023. At this juncture, the learned counsel for the petitioner undertakes to

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withdraw the abovesaid suit. Further, we are of the view that even for the sake of argument, the petitioner's case is accepted that the aforesaid property is a Natham land, the same should be used for residential purpose and not for any other purpose. In the aforesaid land, the petitioner is running the school to an extent of 35 cents.

9. Further, the learned counsel for the petitioner states that the petitioner has already made an application for assignment of patta for the aforesaid land in question. Therefore, we issue the following directions:

i) The petitioner shall send a copy of the earlier application or send a fresh application to the Tahsildar within a period of two weeks from the date of receipt of a copy of this order;

ii) On such receipt, the fourth respondent shall consider the said application as per the Revenue Standing Order and pass appropriate orders as early as possible preferably within a period of twelve weeks from the date of receipt of application.



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iii)The respondents shall not take any coercive action till final orders passed in the application for grant of patta.

10. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

[D.K.K., J.] [R.V., J.]

08.01.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
CM

To:

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Dindigul District.
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