



W.P.(MD) No.2125 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.04.2024

CORAM:

THE HONOURABLE **MR.JUSTICE R.SURESH KUMAR**

AND

THE HONOURABLE **MR.JUSTICE G.ARUL MURUGAN**

W.P.(MD)No.2125 of 2024

and

W.M.P.(MD)Nos.2118 and 2120 of 2024

A.Chandran

... Petitioner

-Vs-

1.The District Collector,
O/o. The District Collector,
Dindigul, Dindigul District.

2.The Revenue Divisional Officer,
O/o.The Revenue Divisional Officer,
Dindigul, Dindigul District.

3.The Tahsildar,
Natham Taluk Office,
Natham, Dindigul District.

4.The Revenue Inspector,
Rettiyapatti Firka,
Natham Taluk, Natham,
Dindigul District.

5.Mathubalan ... Respondents
(R5 is impleaded vide Court dated 01.04.2024 in W.M.P.(MD)No.7484 of 2024)



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the impugned notice dated 27.02.2023 issued by the 4th respondent and quash the same as illegal.

For Petitioner : Mr.A.Abdulkabur
For R1 to R4 : Mr.S.Shaji Bino,
Special Government Pleader
For R5 : Mr.A.Uthaya Kumar

ORDER

[Order of the Court was made by *R.SURESH KUMAR, J.*]

This Writ Petition has been filed seeking for a Writ of Certiorari, to call for the records and quash the notice issued by the 4th respondent under Section 7 of the Act 3 of 1905, dated 27.12.2023.

2.Before issuance of the said notice by the Revenue Inspector, Rettiyapatti Firka, Natham Taluk, there had been a Public Interest Litigation filed by one Mathubalan, who is impleaded in this Writ Petition as 5th respondent, in W.P.(MD)No.24456 of 2023, where his complaint was that, there had been encroachment in Government poramboke land at Survey Nos.539/7, 539/8, 539/9 and 539/10 situated at Perumalpatti Village, Lingavadi, Natham Taluk, Dindigul District. In order to remove the said encroachment, he had given a representation



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on 24.07.2023. Since the same had not been considered, he had approached this Court by filing W.P.(MD)No.24456 of 2023. The said Writ Petition was disposed of by the Division Bench of this Court vide order dated 10.10.2023, where direction had been given to the authorities to take action to remove such encroachment if any and if there is any civil dispute, the individuals can be relegated to approach the competent civil Court.

3.Pursuant to the said order passed by the Division Bench of this Court dated 10.10.2023 only, the present impugned notice dated 27.12.2023 had been issued. Challenging the same, the present Writ Petition has been filed.

4.The learned counsel appearing for the petitioner has submitted that, even though the impugned notice is covering four survey numbers, the petitioner's concern is only about Survey No.539/7, which, in fact, had been purchased by him by valid sale consideration through sale deed and therefore, according to him, the land in the said Survey No.539/7 is neither the Government poramboke land nor an encroached land.

5.In this context, he has also produced patta issued by the revenue authorities to the predecessor in title of the petitioner.



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6.Since this dispute had arisen, where, according to the impugned notice, he allegedly encroached only 172 sq.ft, even to resolve that issue, the petitioner already approached the civil Court by filing civil suit in O.S.No.44 of 2023 on the file of the District Munsif Court, Natham and the same is pending.

7.Now, during the pendency of this Writ Petition, the said Mathubalan, who only triggered the said Public Interest Litigation, has moved the impleading petition in W.M.P.(MD)No.7484 of 2024 in this Writ Petition, seeking to implead himself as one of the party respondents to adjudicate the issue raised in this Writ Petition completely and effectually.

8.The learned counsel for the 5th respondent submitted that, it is not a patta land as claimed by the petitioner and it is Government poramboke land or natham land. Be that as it may, whoever occupied such Government land or natham land are liable to be evicted. Therefore, in the Writ Petition he had filed, orders had been passed giving a direction to the revenue authorities to take action to remove the encroachment and only pursuant to which the notice dated 27.12.2023 has been passed. Challenging the same, the petitioner cannot move this Writ Petition, as the said notice issued, which is impugned in this Writ Petition, is pursuant to the order passed by the Division Bench of this Court in the



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Writ Petition filed by the 5th respondent. He would also submit that in the said suit filed by the petitioner, the 5th respondent is already impleaded as one of the party respondents.

9. We have considered the submissions made on either side.

10. It is the claim of the petitioner that the land in Survey No.539/7 to the extent of 172 sq.ft as stated supra, according to him, is a patta land, which he purchased.

11. In order to establish his right he has approached the civil Court, where the suit filed by him is pending, where the 5th respondent is also become a party.

12. Even in the judgment of the Division Bench of this Court referred to above, such a direction had been given relegating the individuals to go before the civil Court in case there has been a civil dispute.

13. Here, the petitioner has rightly approached the civil Court by filing the said suit, which is pending. Therefore, at this juncture, the land in question to



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the extent of 172 sq.ft in Survey No.539/7, as has been stated in the impugned notice, cannot be considered to be an encroached land, unless and until the issue is ultimately decided by the civil Court after letting evidence by both sides.

14.In view of the above, we dispose of this Writ Petition with the following orders:-

“that the impugned notice dated 27.12.2023 shall not be given effect to insofar as the land in Survey No.539/7 to the extent of 172 sq.ft situated at Perumalpatti Village, Lingavadi, Natham Taluk, Dindigul District against the petitioner, until a decision is made by the civil Court ie., District Munsif Court, Natham in the pending O.S.No.44 of 2023. It is made clear that once the civil Court comes to a conclusion and makes a decree, accordingly, the parties can act upon.”

15.With these observations and directions, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

[R.S.K., J.] & [G.A.M., J.]
01.04.2024
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NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To

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