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W.P.(MD) No.3348 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.02.2024

CORAM:

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

**W.P.(MD) No.3348 of 2024
and
W.M.P.(MD) Nos.3356 & 3359 of 2024**

A.Veeraraj

... Petitioner

-vs-

1.The District Collector
Virudhunagar District
Virudhunagar

2.The Revenue Divisional Officer
Vembakkottai, Virudhunagar District

3.The Block Development Officer
Vembakkottai, Virudhunagar District

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records of the second respondent's notice in Na.Ka.No.B3/2555/2022, dated 09.01.2024 and 18.01.2024, quash the same and consequently direct the second respondent not to remove the fencing and also tinware shed and not to disturb the petitioner's property in S.No.396/13, situated at Vembakkottai Village, Kundairuppu Revenue Village, Virudhunagar District.

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For Petitioner : Ms.S.Prabha

For Respondents : Mr.T.Amjad Khan
Government Advocate for R1 & R2
Mr.S.P.Maharajan
Special Government Pleader for R3

ORDER

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

Mr.T.Amjad Khan, learned Government Advocate, takes notice for the respondents 1 & 2 and Mr.S.P.Maharajan, learned Special Government Pleader takes notice for the third respondent.

2. With the consent of both sides, this writ petition is taken up for final hearing at the admission stage itself.

3. Prayer in this writ petition is to quash the notices dated 09.01.2024 and 18.01.2024, issued by the second respondent directing removal of encroachment in Survey No.396/13 of Vembakkottai Village, Kundairuppu Revenue Village, Virudhunagar District and to direct the second respondent not to disturb the petitioner's possession over the said property.



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4. According to the petitioner, the property in Survey Nos.396/1 and 396/2 of Vembakkottai Village, were jointly purchased by his father Ayyalu Chettiar and one Ganesan. Subsequently, he purchased a portion of the said land from the said Ayyalu Chettiar and Ganesan in the year 2016 and his sister was bequeathed with another portion of the property from the said Ayyalu Chettiar and Ganesan in the year 2018.

5. Further, according to the petitioner, ever since the date of purchase and bequeath, he is in possession of the his property i.e.396/13 and his sister is in possession of her property i.e.396/2 by constructing a house and planting guava and coconut trees in their respective properties. In such circumstances, the second respondent issued a notice directing removal of encroachment made in Survey No.396/13 through which a cart track passes to 396/12. Subsequently, the petitioner submitted a representation to the second respondent on 19.01.2024. However, despite the objection made by the petitioner, once again the second respondent issued the impugned notice to the said Ayyalu Chettiar and Ganesan directing removal of encroachments in the subject land.



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6. Further, according to the petitioner, no cart track passes through the subject land and it is a patta land and he has purchased the subject land from his father. Further, though the petitioner has purchased the subject land, without issuing notice to him, the second respondent issued the impugned notices to the original owners of the subject property.

7. Learned Government Advocate appearing for the respondent 1 & 2, on instructions, by producing a copy of the A-Register and FMB before this Court, submitted that a cart track passes through the subject land and in the said cart track, there are encroachments and hence, the same are directed to be removed. Earlier, notices under Sections 6 and 7 of the Tamil Nadu Land Encroachment Act, 1905 were issued, but there was no response and hence, a final notice was served to the petitioner, but he refused to receive the same. Therefore, the petitioner cannot challenge the impugned notices on the ground that no notice was served to him.

8. A perusal of the FMB Sketch produced by the learned Government Advocate clearly shows that a cart track passes through Survey



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Nos.396/1A, 396/10B, 3906/13A and 396/13B to the land in Survey No. 396/12. Further, a perusal of the A-Regi ster shows that Survey No.396/13 stands in the name of one A.Ayyanasamy Naicker. Though the petitioner claims that he had purchased the subject land from his father, as per the revenue records the subject land stands in the name of the original owner. There is no material to show that the petitioner has taken steps to change the owner's name in the revenue records. In such circumstances, we are not inclined to entertain this writ petition.

9. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

[D.K.K., J.]

[R.V., J.]

14.02.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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To:

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Virudhunagar District,
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