



W.P.(MD)No.13998 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

and

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.P.(MD)No.13998 of 2024

and

W.M.P.(MD)No.12269 of 2024

Karuppaiah

: Petitioner

Vs.

1.State of Tamil Nadu,
Represented by the Principal Secretary,
Revenue and Disaster Management Department,
Fort St. George,
Secretariat, Chennai – 600 009.

2.The Commissioner,
Commissionerate of Land Administration,
Ezhilagam,
Chepauk,
Chennai – 600 005.

3.The District Collector,
Office of the District Collector,
Virudhunagar District.



W.P.(MD)No.13998 of 2024

4.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Sivakasi,
Virudhunagar District.

5.The Tahsildar,
Rajapalayam Taluk,
Virudhunagar District.

6.The Block Development Officer,
Office of the Block Development Officer,
Rajapalayam Taluk,
Virudhunagar District.

7.The Village Administrative Officer,
Sundarajapuram Village Panchayat,
Rajapalayam Taluk,
Virudhunagar District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus, directing the respondents 1 and 2 to assign the grama natham land to the petitioner situated in Natham Survey No.429/38, Sundarajapuram Village, Rajapalayam Taluk, Virudhunagar District, which is comprising of 0.0157 sq.mt as per the market value or any other value as deemed fit in accordance with law within the time stipulated by this Court.



W.P.(MD)No.13998 of 2024

WEB COPY

For Petitioner : Mr.K.Baalasundaram
Senior Counsel
for Mr.R.Alagumani
For Respondents 1 to 5 & 7 : Mr.S.Shaji Bino,
Special Government Pleader
For Respondent No.6 : Mr.N.Satheesh Kumar
Additional Government Pleader

O R D E R

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

The prayer sought for herein is for Writ of Mandamus, directing the respondents 1 and 2 to assign the grama natham land to the petitioner situated in Natham Survey No.429/38, Sundarajapuram Village, Rajapalayam Taluk, Virudhunagar District, which is comprising of 0.0157 sq.mt as per the market value or any other value as deemed fit in accordance with law.

2.With regard to the landed property at Survey No. 429/38, Sundarajapuram Village, Rajapalayam Taluk, Virudhunagar District, to an extent of 0.0157.0 sq.mt., it has been in possession and occupation of the petitioner for long time.



W.P.(MD)No.13998 of 2024

3.But the fact remains that the said land belongs to the Government ie., Government poramboke land or Natham land whatever be the classification.

4.According to the Government, it is a Government poramboke land. Therefore, action had been initiated against the petitioner by issuing notice under the Section 7 of “the Land Encroachment Act, 1905” [hereinafter “the Act” for brevity] on 02.03.2023, that was under challenge in the writ petition filed by the petitioner in W.P.(MD)No.6060 of 2023. That writ petition was dismissed by the Division Bench of this Court vide order dated 25.03.2024. As against the said dismissal order, Special Leave Petition in S.L.P.(C) No.11241 of 2024 came to be filed. when that SLP came up for hearing, the Hon'ble Supreme Court after hearing the learned Senior Counsel appearing on behalf of the petitioner has passed the following order on 17.05.2024:

“2.The counsel would submit that in respect of the very same land, the petitioner has filed the O.S.No.105 of 2022 and the same is pending before the Sub Court, Srivilliputhur.

3.With the above projection, the senior counsel submits that the petitioner (plaintiff)



W.P.(MD)No.13998 of 2024

would move the Civil Judge for appropriate interim relief on the eviction notice issued by the Tahsildar by describing the land as Government Poramboke land.

4. Noting the above submission, the Special Leave Petition stands disposed of as not pressed, reserving the liberty as aforesaid."

5. Before the Supreme Court, it was a stand categorically taken by the petitioner that it is a Government poramboke land. However, they wanted to take time by filing an application before the Civil Court to seek the interim relief, the liberty also was given by the Hon'ble Supreme Court.

6. Pursuant to which, before going to the Civil Court, since there has been intervening summer holidays as the Civil Court was not available immediately, the petitioner has once again approached this Court by filing a writ petition in W.P.(MD)No.11405 of 2024, seeking for a Writ of Mandamus, not to take any coercive steps to demolish the building constructed by the petitioner in the land in question till the disposal of the appeal filed under Section 10 of the Act, before the District Collector, which is pending



W.P.(MD)No.13998 of 2024

according to the petitioner. The said writ petition was disposed of by another Division Bench of this Court on 28.05.2024, where the Division Bench has passed the following order:

“4.The present writ petition has been filed on the ground that due to summer vacation, the petitioner is not able to approach the concerned civil court for getting appropriate interim relief. Considering the fact that the Hon'ble Supreme Court has granted liberty to the petitioner to approach the competent civil court and an appeal has also been filed the petitioner under Section 10 of the Tamil Nadu Land Encroachment Act, 1905, this Court is inclined to pass the following orders:

(a) The respondents herein shall not take any coercive steps till 14.06.2024;

(b) Thereafter, the authorities are at liberty to proceed in accordance with law depending upon the orders of the competent civil court.

With the said observations, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.”

7. Thereafter, the petitioner also had approached the Civil Court ie., Principal Sub Judge at Srivilliputhur and moved I.A.No.3



W.P.(MD)No.13998 of 2024

of 2022 in O.S.No.105 of 2022. The said interlocutory application seeking injunction against the revenue authorities was rejected by the Civil Court by order dated 13.06.2024.

8.At that juncture, the petitioner has once again approached this Court by filing a Writ Petition in W.P.(MD) No.13112 of 2024, where the prayer sought for was a Writ of Mandamus, forbearing the Tahsildar ie., the third respondent in the writ petition from evicting the petitioner from the property in question till the disposal of the appeal filed under Section 10 of the Act.

9.The Division Bench of this Court by order dated 19.06.2024, while disposing the said writ petition passed the following order:

“This writ petition is disposed of in the following terms:

(a) The first respondent will dispose of the petitioner's appeal on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

(b) The petitioner will be heard before passing final order.



W.P.(MD)No.13998 of 2024

WEB COPY

(c) Till the Appellate Authority disposes of the petitioner's appeal, the eviction order will not be implemented.

(d) We make it clear that we have not gone in the merits of the matter.

(e) No costs. Consequently, connected miscellaneous petition is closed."

10.Thereafter, the Section 10 appeal which was pending before the District Collector, was heard and orders have been reserved. Only at this juncture, the present writ petition has been filed where the petitioner has taken a completely different stand, probably after having realised the factual matrix. So far, the petitioner had been riding one horse with a plea that the petitioner is having right over the property in question against the Government. However, after a series of legal battle, the petitioner has realised the factum that he cannot ride the horse as the horse he is so far riding is not a proper route by realising the fact that the land belongs to the Government. Even if it is a Natham land or the Government poramboke land, wherein he has already been in occupancy by putting up a construction, he wants to maintain the same and wants to become owner of the property and now comes



W.P.(MD)No.13998 of 2024

forward in the present writ petition that he is ready and willing to pay the market value of the land in question and seeks indulgence of this Court to consider the plea of the petitioner to sell the property to the petitioner after collecting the market value.

11.In view of the present stand that has been taken by the petitioner as has been stated in the present writ petition, so far that stand taken by the petitioner has been given up. Resultantly, now two positions have emerged. One is that the petitioner has accepted the fact that the land in question is a Government land. Second is he wants to pursue the problem in a positive line and he seeks to accept the payment of market value, for which the petitioner has given a representation on 25.06.2024 to the Secretary to Government, Revenue and Disaster Management Department as well as the Commissioner of Land Administration who are the first and second respondents herein. The learned Senior Counsel appearing for the petitioner wants indulgence of this Court to give a direction to the first and second respondents to consider the said request and to take a decision in accordance with law.



W.P.(MD)No.13998 of 2024

WEB COPY

12.We have heard the learned Government Pleaders appearing for the respective respondents who would submit that under the guise of making this application seeking for payment of market value of the land, the petitioner cannot prolong the proceedings already initiated.

13.The said apprehension as expressed by the learned Government Pleaders may not be available any more for the reasons that, already that plea against the Act has been given up by the petitioner by making the present plea of paying the cost for the purpose of purchasing the said land.

14.However, it is for the first and second respondents to take a decision with regard to the plea raised by the petitioner through his representation dated 25.06.2024. Hence, we are inclined to dispose this writ petition with the following direction:

“(i) there shall be a direction to the respondents to consider the representation of the petitioner dated 25.06.2024 and pass orders thereon on merits and in accordance with law within a period of twelve [12] weeks from the date of receipt of a copy of this order.



W.P.(MD)No.13998 of 2024

(ii) In view of this position, where twelve [12] weeks maximum time now has been given for disposal of the representation of the petitioner dated 25.06.2024, now there need not be any further effort taken by the revenue authorities under the Act against the petitioner as of now, the reason being that, once the representation now given by the petitioner is decided by the Government positively in favour of the petitioner then the petitioner has to pay the cost of the land to be fixed by the Government and enjoy the said property. If the Government negates the said plea of the petitioner made through his representation dated 25.06.2024, then the natural corollary would be immediately to remove the construction put up by him as an encroachment. In the meanwhile, if the District Collector under Section 10 of the Act, where he has already reserved orders, passes any orders either way, that would not in any way alter the situation of deciding the representation of the petitioner dated 25.06.2024, by the first and second respondents as indicated above."



W.P.(MD)No.13998 of 2024

WEB COPY

15.With the above directions, this Writ Petition stands disposed of. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

[R.S.K.,J.] & [G.A.M.,J.]

28.06.2024

Neutral Citation : Yes/No

Index : Yes/No

Internet : Yes/No

tsvn / MR



W.P.(MD)No.13998 of 2024

To

WEB COPY

- 1.The Principal Secretary,
State of Tamil Nadu,
Revenue and Disaster Management Department,
Fort St. George,
Secretariat, Chennai – 600 009.
- 2.The Commissioner,
Commissionerate of Land Administration,
Ezhilagam,
Chepauk,
Chennai – 600 005.
- 3.The District Collector,
Office of the District Collector,
Virudhunagar District.
- 4.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Sivakasi,
Virudhunagar District.
- 5.The Tahsildar,
Rajapalayam Taluk,
Virudhunagar District.
- 6.The Block Development Officer,
Office of the Block Development Officer,
Rajapalayam Taluk,
Virudhunagar District.
- 7.The Village Administrative Officer,
Sundarajapuram Village Panchayat,
Rajapalayam Taluk,
Virudhunagar District.



WEB COPY



W.P.(MD)No.13998 of 2024

R.SURESH KUMAR, J.

and

G.ARUL MURUGAN, J.

tsvn / MR

ORDER MADE IN

W.P.(MD)No.13998 of 2024

28.06.2024