



W.P.(MD) No.14716 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.07.2024

CORAM:

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

AND

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

W.P.(MD)No.14716 of 2024

and

W.M.P.(MD)No.12910 of 2024

Anguraj

... Petitioner

-Vs-

1.The District Collector,
Collectorate, Tenkasi District.

2.The Revenue Divisional Officer,
Sangarankovil Taluk, Tenkasi District.

3.The Tahsildar,
Taluk Office,
Sivagiri Taluk, Tenkasi District.

4.The Block Development Officer,
(Village Panchayat),
Vasudevanallur Village Panchayat Union,
Sivagiri Taluk, Tenkasi District.

5.The Village Panchayat President,
Naranapuram Village, Sivagiri Taluk,
Tenkasi District.

... Respondents



W.P.(MD) No.14716 of 2024

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the respondents 3 to 5 from dispossessing the petitioner from his house and compound wall constructed in S.F.Nos.1537/6 & 1537/7 of Naranapuram Part-I Village, Sivagiri Taluk, Tenkasi District and consequently, directing the 2nd respondent to pass order on the petitioner's appeal petition to rectify the mistake of wrong classification in respect of S.F.Nos.1537/6 & 1537/7 of Naranapuram Part-I Village, Sivagiri Taluk, Tenkasi District and grant patta by considering the petitioner's representation dated 26.06.2024.

For Petitioner : Mr.K.Balasundaram,
Senior Counsel for M/s.KBS Law Office

For R1 to R3 : Mr.P.Thilak Kumar,
Government Pleader

For R4 & R5 : Mr.N.Satheesh Kumar,
Additional Government Pleader

For proposed party : Mr.R.J.Karthik

ORDER

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

The prayer sought for in this Writ Petition is to forbear the respondents 3 to 5 from dispossessing the petitioner from his house and compound wall constructed in S.F.Nos.1537/6 & 1537/7 of Naranapuram Part-I Village, Sivagiri Taluk, Tenkasi District and consequently, to direct the 2nd respondent to pass order on the petitioner's appeal petition to rectify the mistake of wrong classification in



W.P.(MD) No.14716 of 2024

respect of S.F.Nos.1537/6 & 1537/7 of Naranapuram Part-I Village, Sivagiri Taluk, Tenkasi District and grant patta by considering the petitioner's representation dated 26.06.2024.

2.It is the case of the petitioner as projected by the learned Senior Counsel appearing for the petitioner that for long years the petitioner's father had been in possession and enjoyment of the property in S.Nos. 1537/6 & 1537/7 of Naranapuram Part-I Village, Sivagiri Taluk, Tenkasi District, where he had put up a dwelling house and had been residing. Since the land is natham land, at the time of natham survey, the petitioner's father being illiterate could not get patta. During his life time, he had bequeathed a Will in favour of the petitioner. Therefore, after the demise of the petitioner's father in the year 1996, the petitioner claims to have inherited the property in question, where apart from the dwelling house already constructed, he has put up his own construction and residing there, where he has also put up a shop.

3.When that being so, the other resident of the same village, namely, Velusamy had approached the civil Court, where there has been a civil Suit pending between the petitioner and the said Velusamy, who had also filed W.P. (MD)No.25831 of 2022 and this petitioner had also filed W.P.(MD)No.4281 of



W.P.(MD) No.14716 of 2024

2024. These Writ Petitions were heard together and disposed of by a common order of the Division Bench of this Court dated 28.02.2024, where ultimately, the Division Bench have allowed those Writ Petitions by giving a direction to the revenue authority to conduct survey in S.No.1537/7 and act upon accordingly.

4.Pursuant to the said order passed by the Division Bench, it is the claim of the learned Government Pleader for the respondents 1 to 3 that when an attempt was made by the revenue authority to survey the land, there has been stiff resistance from the petitioner, because of which, the land in question could not be surveyed as directed by this Court. Only, at this juncture, the present Writ Petition is filed by the petitioner, seeking Writ of Mandamus.

5.The learned Senior Counsel for the petitioner would contend that there are two survey numbers ie., S.Nos.1537/6 & 1537/7. Insofar as those survey numbers are concerned, there had been sub division and based on the sub division, where the petitioner's father and subsequently, the petitioner put up the construction for dwelling purpose and also for placing small petty shop, are all the properties, which are in natham land and it is not in the public street as claimed either by the private party, namely, Velusamy or the revenue authorities.



W.P.(MD) No.14716 of 2024

WEB COPY

6. Moreover, if at all any survey is to be conducted by the revenue authorities, they should have put the petitioner on notice, so that he will also be participated in such survey process and without giving any notice, all of a sudden, since they had come, the petitioner could not co-operate with them. However, the learned Senior Counsel would submit that after giving notice, at any time the Revenue Department can survey the land and notice must be in writing.

7. Insofar as the private party, who is not a party respondent herein, namely, Velusamy is concerned, Mr.R.J.Karthik, learned counsel appearing for the said Velusamy has made a submission, stating that the property, where the petitioner has put up his house, is the corner property, where one side of the street might not have been occupied or encroached upon by the petitioner, however, other side of the street has been encroached upon by the petitioner. Therefore, to that extent, if the encroachment is found out by surveying the land and if it is removed, that would be sufficient for the said Velusamy as well as other people in that locality, he contended.

8. The learned Government Pleader for the respondents 1 to 3 would submit that in order to ascertain as to whether there has been any sub division and



W.P.(MD) No.14716 of 2024

also as per the sub division, whether there has been any encroachment on the part of the petitioner or others and by virtue of that, ingress and egress of the said Velusamy and others are getting affected through the street, where others are moving towards their dwelling house, a survey has to be conducted. Therefore, if notice is given to the petitioner and others, they have to co-operate with the Revenue Department to complete the survey as directed by this Court, he contended.

9. We have considered the rival submissions made by the learned counsel for the parties and perused the materials available on record.

10. It is the claim and counter claim that which part of these two survey numbers are natham land, where these dwelling houses are constructed and which part of the natham are categorized as street. These factors are first to be ascertained, for which, survey as directed earlier is necessary. Therefore, the revenue authorities are hereby directed to issue notice to the petitioner and others in that locality by fixing a date for survey. After receipt of the notice, on the date of survey the petitioner and others shall co-operate with the revenue authorities to complete the survey.



W.P.(MD) No.14716 of 2024

11.It is made clear that while making survey, the revenue authorities shall take into consideration the available revenue records, including the alleged sub division made by the revenue authorities and based on which, what is the actual natham land, which has been made for street, is also to be identified.

12.After completing the survey, if still the revenue authorities find any area, which is marked as street and it is being used as a street, encroached upon either by the petitioner or any other party, necessary action to remove such encroachment in accordance with law can be taken by the revenue authorities. Needful as indicated above shall be undertaken, within a period of two months from the date of receipt of a copy of this order.

13.With these directions, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

[R.S.K., J.] & [G.A.M., J.]
03.07.2024

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

Yuva



W.P.(MD) No.14716 of 2024

To

- 1.The District Collector,
Collectorate, Tenkasi District.
- 2.The Revenue Divisional Officer,
Sangarankovil Taluk, Tenkasi District.
- 3.The Tahsildar,
Taluk Office,
Sivagiri Taluk, Tenkasi District.
- 4.The Block Development Officer,
(Village Panchayat),
Vasudevanallur Village Panchayat Union,
Sivagiri Taluk, Tenkasi District.
- 5.The Village Panchayat President,
Naranapuram Village, Sivagiri Taluk,
Tenkasi District.



WEB COPY



W.P.(MD) No.14716 of 2024

R.SURESH KUMAR, J.
AND
G.ARUL MURUGAN, J.

Yuva

W.P.(MD)No.14716 of 2024

03.07.2024