



W.P.(MD) No.12490 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD) No.12490 of 2017

and

W.M.P.(MD) Nos.9632 and 9633 of 2017

K.Subramanian,

.. Petitioner

Vs.

1. The District Collector
Thanjavur District,
Thanjavur.

2. The Revenue Divisional Officer,
Pattukkottai, Thanjavur District.
(Cause title amended vide Court Order
dated 08/09/17 in WMP.(MD)12100/17)

3, The Tahsildar
Taluk Office, Peravoorani Taluk,
Thanjavur District.

4. The Inspector of Police
Sethupavachaitram Police Station,
Sethupavachaitram,
Thanjavur District.

5. Kathayee,
6. Manikandan,

.. Respondents



W.P.(MD) No.12490 of 2017

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, directing the respondents 1 to 4 to grant Rs.3 00 000/- as compensation to the petitioner for having illegally destroyed the wire fence and the house in S.No.102/4 to an extent of 0.80.0 Ares and S.No.318/2 to an extent of 3.89.50 Ares situated at Peravoorani Taluk, Thanjavur District, within the time stipulated by this Court and consequently direct the respondents 1 to 4 not to interfere with the petitioners peaceful possession and enjoyment of the land S.No.102/4 to an extent of 0.80.0 Ares and S.No.318/2 to an extent of 3.89.50 Ares situated at Peravoorani Taluk, Thanjavur District.

For Petitioner : Mr.AN.Ramanathan

For Respondents : Mr.R.Suresh Kumar,
Additional Government Pleader
for R1 & 3

: Mrs.M.Aasha,
Government Advocate (Crl.Side) for R4

: Mr.M.P.Senthil for R5 & R6

ORDER

The prayer in the Writ Petition is for compensation for the excessive action taken by the respondents 2 to 4 in the writ petition.



W.P.(MD) No.12490 of 2017

WEB COPY

2. It is the case of the petitioner that he is a legal heir of one Kathamuthu, being adopted son and therefore, he has a share in the property. However, the respondents 5 and 6 had also benefit of the legal heir certificate issued by the Revenue Authorities. But, however, the private respondents, namely, the respondents 5 and 6, with the help of the Revenue Authorities and the police namely, respondents 2 to 4 had demolished a structure put up by him and damaged various materials. To support his contention, he had also produced photographs. He would submit that the action of the respondents 2 to 4 is without any authority of law and therefore, they are liable to pay compensation for the loss suffered by the petitioner.

3. On the other hand, the learned counsel for the respondents 5 and 6 would submit that the petitioner had fraudulently obtained a legal heir certificate from the Revenue Authorities, upon which, he had made a claim. He would also submit that a civil suit was also decreed holding that the petitioner is not the legal heir of Kathamuthu as he is not the



W.P.(MD) No.12490 of 2017

WEB COPY

adopted son as no such adoption is proved and therefore, the petitioner is a rank encroacher in the property. Over night he had put up the construction with an attempt to grab the property which rightlyfully belonged to the respondents 5 and 6. He would further submit that since the petitioner had attempted to encroach upon the property, over night, the respondents with the support of the villagers had removed encroachments on their own and only thereafter, the official respondents, namely, respondents 2 to 4 have come to the property and has advised the parties to resolve their disputes by filing appropriate civil proceedings. Therefore, the Writ Petition itself is based on false allegation.

4. The learned Government Counsel appearing for the official respondents would submit that legal heir certificate that would have been obtained by fraud ,had been cancelled by the Revenue Divisional Officer as early as on 18.02.2014, which had not been challenged by the petitioner. The petitioner had attempted to unlawfully encroach upon the land belonging to the respondents 5 and 6 and since the disputes arose between them, they have not intervened with the omission or commission



W.P.(MD) No.12490 of 2017

by both the parties and they are advised to approach the civil Court.

Therefore, they are not liable to pay any compensation as the allegations made against the official respondents are false.

5. I have perused the materials available on record.

6. The photographs submitted by the petitioner would draw to a *prima facie* conclusion that at the time of the incident, there had been the presence of the police and other authorities. However, it has been disputed by the respective parties that the demolition had not taken place at the instance of the police or the Revenue Authorities.

7. Since this disputed fact cannot be entertained in a writ petition filed under Article 226 of the Constitution of India, I am inclined to direct the first respondent, namely, the District Collector, Thanjavur, being the head of the Revenue of the District, to conduct an enquiry into the allegations made by the petitioner and take appropriate action, if it is found in the enquiry that there had been excess of authorities by



W.P.(MD) No.12490 of 2017

WEB COPY

respondents 2 to 4, the District Collector can also authorize an Officer not below the rank of District Revenue Officer for the examination of the documents and evidence that may be filed or let in by the respective parties. The said Officer shall file a detailed report to the District Collector, Thanjavur District, namely, the first respondent herein and upon receipt of such report from the Officer authorized, to conduct an enquiry, after affording opportunity to the respective parties, shall pass orders in accordance with law.

8. With the aforesaid direction, this Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

19.11.2024

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

LS



WEB COPY



W.P.(MD) No.12490 of 2017

To

1. The District Collector
Thanjavur District,
Thanjavur.
2. The Revenue Divisional Officer,
Pattukkottai, Thanjavur District.
- 3, The Tahsildar
Taluk Office, Peravoorani Taluk,
Thanjavur District.
4. The Inspector of Police
Sethupavachaitram Police Station,
Sethupavachaitram,
Thanjavur District.



WEB COPY



W.P.(MD) No.12490 of 2017

K.KUMARESH BABU, J.

LS

W.P.(MD) No.12490 of 2017

Dated: 19.11.2024