



W.P.(MD) No.16632 of 2017

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.01.2024

CORAM:

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

**W.P.(MD) No.16632 of 2017
and W.M.P.(MD) No.13232 of 2017**

Ganapathy Chettiar,
S/o.Subbiah Chettiar,
Vanigar Street,
Ervadi, Nanguneri Taluk,
Tirunelveli District,
Administrator,
Arulmigu Santhanamari, Utchimahali &
Muppidathi Ammankoil Temple,
Vannier Community,
Ervadi.

... Petitioner

-VS-

1.The Executive Officer,,
Ervadi I-Grade Town Panchayat,
Nanguneri,
Tirunelveli District.

2.The Tahsildar,
Nanguneri Taluk,
Tirunelveli District.



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3.S.Selvi

4.Thirukkurangudi Thiru Jeer Mutt,
Through its Power Agent,
Srinivasan,
Thirukkurangudi – 627 115,
Tirunelveli District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying to issue a Certiorarified Mandamus, to call for records relating to the impugned order passed by the 1st respondent herein in his proceedings in Na.Ka.No.46/2017 dated 29.08.2017 served on 30.08.2017 and quash the same as illegal and further direct the respondents 1 and 2 herein not to take any coercive action in respect of Survey No.18/309, Ward No.15, Thiruvarangeri, Ervadi, Tirunelveli District measuring 6.82 Cents till the disposal of the civil suit in O.S.No.86 of 2017 on the file of Sub Court, Valliyoor.

For Petitioner : Mr.V.Meenakshisundaram

For Respondents : Mr.N.Satheeshkumar
Additional Government Pleader for R1 & R2

Mr.H.Arumugam for R3

Mr.A.Arumugam for R4



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ORDER

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

The Writ Petition has been filed challenging the proceedings of the 1st respondent in Na.Ka.No.46/2017, dated 29.08.2017 and for a direction to the respondents 1 and 2 not to take any coercive action in respect of Survey No. 18/309, Ward No.15, Thiruvarangeri, Ervadi, Tirunelveli District, measuring an extent of 6.82 cents till the disposal of the civil suit in O.S.No.86 of 2017, on the file of Sub Court, Valliyoor.

2. According to the petitioner the property in Survey No.18/309, Ward No.15, Thiruvarangeri, Ervadi, Tirunelveli District, measuring an extent of 6.82 cents along with other portions of land in S.No.18 in Ervadi, belongs to the 4th respondent Mutt. The petitioner was permitted to enjoy S.No.18/309 for the purpose of utilizing the same as place for Annadhanam during all festivals celebrated in Arulmigu Santhanamari, Utchimahali & Muppidathi Ammankali Temple. However, during the U.D.R. scheme the above said 6.82 cents were wrongly classified as Sarkar Poramboke. As a lessee of the fourth respondent, the petitioner approached the authorities concerned, seeking rectification of the said



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mistake committed in the revenue records. Further, they filed a suit in O.S.No.86 of 2014, on the file of the Sub Court, Villiyoor, against the third respondent and the same is pending. The 4th respondent Mutt has also submitted an application to the Sub Collector, Cheranmahadevi, to correct the wrong entry classifying the said land as pathway. In the meanwhile, the first respondent has issued the impugned eviction notice, directing the petitioner to remove the encroachment, without providing opportunity to the petitioner. Therefore, the impugned notice is liable to be set aside.

3. According to the 4th respondent Mutt, the said property belongs to the Mutt and the same has been wrongly classified as Sarkar Poramboke in the revenue records and they have filed an application to rectify the said mistake and the same is pending. Further, the first respondent has no jurisdiction to issue eviction notice.

4. We have gone the records produced and we find that the petitioner is claiming right under the fourth respondent Mutt and the Mutt has made an application for correcting the alleged mistake in the revenue records and the



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same is pending. The Village Administrative Officer has issued a certificate stating that the said land is shown as Sarkar Poramboke. The first respondent has not filed counter affidavit. Therefore, based on the available records, we came to the conclusion that the property in question is classified as Sarkar Poramboke. Hence, the first respondent is not competent issue eviction notice and the Tahsildar is the competent authority to remove the encroachment. Therefore, the eviction order passed by the first respondent / Executive Officer is liable to be set aside.

5. Accordingly, the Writ Petition stands allowed and the eviction notice issued by the 1st respondent in Na.Ka.No.46/2017, dated 29.08.2017, is set aside. However, liberty is granted to the revenue officials to take necessary action for removal of encroachment, if any, in accordance with law as expeditiously as possible. No costs. Consequently, connected Miscellaneous Petition is closed.

[D.K.K., J.] [R.V., J.]
02.01.2024

Index : Yes / No
Internet : Yes / No
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D.KRISHNAKUMAR, J.
and
R.VIJAYAKUMAR, J.

SJ

To

- 1.The Executive Officer,,
Ervadi I-Grade Town Panchayat,
Nanguneri,
Tirunelveli District.
- 2.The Tahsildar,
Nanguneri Taluk,
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