



W.P.(MD) No.1255 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.1255 of 2024

and

W.M.P(MD)No.1283 of 2024

Malaisamy

... Petitioner

Vs.

1.The District Collector,
Theni District,
Theni.

2.The Revenue Divisional Officer,
Uthamapalayam,
Theni District.

3.The Tahsildar,
Uthamapalayam Taluk,
Uthamapalayam,
Theni District.

4.The Executive Officer,
Uthamapalayam Town Panchayat,
Uthamapalayam,
Theni District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India,
to issue a Writ of Mandamus forbearing the Respondents from



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interfering with peaceful possession and enjoyment of the property in Survey No.1781 and 1776/3 and consequentially forbearing them from having ingress and egress through the property in Survey No.1776/2 situated at Vallavan Kal Kannaru Pasanam Uthamathukkal,Uthamapalayam village, Theni District.

For Petitioner	:Mr.J.Bharathan,
For R-1 to R-3	:Mr.V.Nirmal Kumar, Government Advocate
For R-4	:Mr.T.Amjad Khan, Government Advocate

ORDER

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

The petitioner has filed this writ petition seeking for issuance of a Writ of Mandamus forbearing the Respondents from interfering with the peaceful possession and enjoyment of the property in Survey No.1781 and 1776/3 and consequently, forbearing them from having ingress and egress through the property in Survey No.1776/2 situated at Vallavan Kal Kannaru Pasanam Uthamathukkal,Uthamapalayam Village, Theni District.

2. According to the petitioner, his mother has purchased the property by way of an unregistered sale deed he has been in



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possession of the property in question and in this regard, a suit in O.S.No.148 of 2022 has been filed seeking the relief of permanent injunction. The grievance of the petitioner is that the respondents are attempting to evict the petitioner. Hence, the petitioner has filed this writ petition with the aforesaid prayer.

3. A detailed counter affidavit has been filed by the fourth respondent, stating that as per the A-register the subject land in S.F.No.1781 has been classified as 'Government Poramboke land' and the petitioner has no legal right at all to purchase the said land and he has only encroached the said land in question. It is further stated that as the lands in S.F.No.1780/1 & 1781/1 with a total extent of 1.64 acres of land was required for setting up a water RO Plant, the said land was surveyed and selected for setting up the proposed Water RO Plant. Since the said land is a part and parcel of the RO project, a show-cause notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905(in short 'the Act') was issued to the petitioner. But, there was no response from the petitioner and therefore, the petitioner being the encroacher is not entitled for the relief sought for in this writ petition. Further, the petitioner has not challenged the notice issued under Section 7 of the Act.



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4. We have given anxious consideration to the submissions made on either side.

5. Since there is a disputed question of fact involved in this writ petition, we are not inclined to grant the relief sought for by the petitioner. If there is any encroachment found in the property belongs to the Government, appropriate action can be taken by the authorities concerned, by following the due process of law.

6. With the above observations, this writ petition stands disposed of. No Costs. Consequently, connected miscellaneous petition is closed.

[D.K.K., J.]

[R.V., J.]

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Neutral Citation: Yes / No
Index : Yes / No

PM



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