
(2010) 10 MAD CK 0068

In the Madras High Court

Case No : Writ Petition (MD) No. 7002 of 2008 and M.P. (MD) No's. 1 and 2 Of 2010

S. Manian

APPELLANT

Vs

The District Collector, The Superintending Engineer, The
Tahshildhar and The Revenue Inspector

RESPONDENT

Date of Decision : 22-10-2010

Acts Referred:

Constitution of India, 1950 — Article 226

Tamil Nadu Land Encroachment Act, 1905 — Section 7

Citation : (2010) 10 MAD CK 0068

Hon'ble Judges : T. Raja, J

Bench : Single Bench

Advocate : No appearance, for the Appellant; D. Sasikumar, for the Respondent

Final Decision : Dismissed

Judgement

T. Raja, J.—The Petitioner has filed the petition seeking issuance of writ of Mandamus forbearing the Respondents from evicting the

Petitioner's from his land, comprised in Survey No. 345 at Kallanai Village, Vadipatti Taluk, Madurai District.

2. It is stated by the Petitioner in the affidavit that he was in continuous possession and enjoyment of 1.5 acres of Nanja land comprised in Survey

No. 345 of Kallanai Village. This land is situated on the outer bit of the southern boundary of one village tank called Kesavaneri Kulam, but, the

said land is not situated in the water stagnated area. This land is covered by three sides by patta lands and the fourth side by the tank. But, the

revenue records classified this land as "tank poramboke". Therefore, the Respondent/the Revenue Department considered the Petitioner's

occupation as unobjectionable one and thereafter, they also levied tax under B-

Memo. Subsequently, in the year 1967, the third Respondent

Tahsildar of Vadipatti Taluk called the Petitioner for an enquiry u/s 7 of the Tamilnadu Encroachment Act, 1905 and after attending the enquiry he

explained the details relating to the land. On 24.07.96, the third and fourth Respondents forced the Petitioner to move out from the land and after

that the Petitioner has filed a writ petition in W.P. No. 10940 of 1996 along with a W.P.M.P. No. 14572 of 1996 wherein an order of injunction

was also passed against the Respondents. Further, the same was also disposed on 01.02.2002 stating that if the Respondents wish to evict the

Petitioner, they may do so after following the procedure prescribed by law.

3. It is submitted that the Respondents have not taken any action, but, all of a sudden, the second Respondent without giving any prior notice

refused the Petitioner to enter into his land even to perform Pooja to the Malaianman Temple.

4. Therefore, the Petitioner was compelled to file the present writ petition under Article 226 of the Constitution of India, seeking an order of

injunction forbearing the Respondents from evicting the Petitioner from his land, comprised in Survey No. 345 at Kallanai Village, Vadipatti Taluk,

Madurai District.

5. On the other hand, the learned Government Advocate appearing for the Respondents submits that this is the third writ petition. After the

Petitioner failed to establish his right in the two other earlier writ petitions, once again, the Petitioner filed the present writ petition. Further, it was

also submitted that the Petitioner is in the habit of occupying the above said tank poramboke/reservoir area and always encroaches upon the

Government land by extending his agricultural occupation during the agricultural season, since the Petitioner was found in encroaching upon the

Government, in the year 1996, the Respondents removed the encroachments put up by the Petitioner after conducting an enquiry u/s 7 of the Tamil

Nadu Encroachment Act 1905. Therefore, the Petitioner filed the writ petition also in W.P. No. 10940/1996 before the Principal Bench of this

Court, but, the said writ petition was disposed off with a direction to the Respondent, if the Respondents wished to evict, may do so after following

the procedure prescribed by law. In compliance of the aforesaid direction, the Respondents dispossessed the Petitioners after holding an enquiry.

Thereafter, the Petitioner once again filed another Writ Petition No. 2929/2004 before this Court for the same Survey No. 345, Kallanai Village,

Vadipatti Taluk, i.e. tank poramboke, and the said writ petition was also dismissed as not pressed. Once again the present writ petition was filed in

the name of the present writ Petitioner, and hence he prayed for dismissal of the same with cost as it is a frivolous one.

6. The submissions made by the learned Government Advocate appearing for the Respondents that the Petitioner is in habit of encroaching upon

the tank poramboke land has to be accepted. Further, the record also shows that the Petitioner had filed two other writ petitions successively, one

after the other the said writ petitions came to be dismissed as not pressed. In fact, in one of the orders passed by the Principal Bench in W.P. No.

10940/1996, a direction was given to the Respondents that if they wish to evict the Petitioner, they can do so after following the procedure

prescribed by law. Subsequently, on the basis of the order passed by this Court, the writ Petitioner was issued with a notice and subsequently, he

was evicted from the land covered in survey No. 345, Kallanai Village, Vadipatti Taluk. As against that action, the Petitioner filed a Writ Petition in

W.P. No. 2929/2004 and the said writ petition was also subsequently dismissed as not pressed.

7. Therefore, when his two earlier writ petitions filed by him came to be dismissed as not pressed, the third writ petition is not maintainable on

merits. Accordingly, the same is dismissed. Consequently, connected miscellaneous petitions are closed.