

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.07.2015

CORAM

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI

AND

THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.P. No.30816 of 2014

G.Lakshmi

.. Petitioner

Vs.

1. The District Collector,
Kancheepuram District,
Kancheepuram.
2. The Revenue Divisional Officer,
Revenue Divisional Office,
Kundrathur,
Kancheepuram District.
3. The Commissioner,
Kundrathur Panchayat Union,
(E) Padappai,
Kancheepuram District.
4. The Tahsildar,
Sriperumbudur,
Kancheepuram District.

5.Narayanan

6.Ambika

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus to direct the respondents 1 to 4 to remove the encroachment made by the respondents 5 and 6 in S.No.589/16, Saraswathi Nagar, Sirukalathur village, Kundrathur, Chennai-600 069.

For petitioner : Mr.R.Jayaprakash

For respondents : Mr.P.S.Sivashanmugasundaram, Spl.G.P.
For RR1,2 and 4
Mr.R.Rajeswaran, Spl.G.P. For R-3

Not ready notice for RR5 and 6

ORDER

(Order of the Court was made by SATISH K. AGNIHOTRI, J.)

The writ petitioner is stated to be a resident of S.No.589/15 of Saraswathi Nagar, Sirukalathur, Kundrathur Via, Chennai. It is alleged that the respondents 5 and 6 have made encroachment on the Sarkar Poramboke street, as recorded in the village record in the said survey number. Thus, a direction be issued to the respondents 1 to 4 to remove the encroachment.

2 Pursuant to the notice dated 25.11.2014, the official respondents failed to file any response when the matter was taken up on 09th December, 2014, 23rd December, 2014 and 26th June, 2015. On 6th July, 2015, a direction was issued to the Tahsildar / fourth respondent to remain present in Court, explaining as to why no steps were initiated in response to several orders passed by this court.

3 The fourth respondent had ultimately filed a counter affidavit on 13th July, 2015 stating as under :

"3.It is humbly submitted that the Revenue Inspector of the fourth respondent office who inspected the disputed site in S.No.589/16 and has found that the land measuring 00215 square meter is mentioned as Sarkar poramboke Street in the village record. The fifth and sixth respondents herein constructed a wall measuring an extent of 00011 square meter. In the enquiry it was revealed that the same was constructed 10 years back.

4.It is humbly submitted that the said encroachment is made in street which is maintained and look after by the third respondent and hence it is to be removed by the third respondent. The fourth respondent herein provide all assistance for the removal herein."

4 In view of the aforestated averments made by the fourth respondent, the learned counsel appearing for the third respondent submits that necessary steps shall be taken after affording proper opportunity of hearing to the alleged encroachers for removal of the encroachment from the street, i.e., Sarkar poramboke street, within a period of four weeks.

5 The fourth respondent / Tahsildar, who is present in court, submits that on account of busy schedule, she could not pay any attention to several adjournments granted in this matter. It is also contended that the fourth respondent had joined new office only in March, 2015.

6 It is admitted that despite several opportunities granted, the fourth respondent has not responded to the time given by this court for filing counter affidavit which is tantamount to defiance of the court's order. However, in view of the fact that ultimately she had filed her counter, enabling us to dispose of the matter, without proceeding further, we are of the view that her defiant attitude may be condoned by imposition of cost of Rs.5000/- (Rupees five thousand only) payable by the Ms.G.Sofia Jothibai, fourth respondent Tahsildar, Sriperumpudur to the Tamil Nadu Mediation and Conciliation Centre, High Court, Madras.

7 For the reasons mentioned hereinabove, we dispose of the writ petition, directing the third respondent to initiate steps for removal of the encroachment as aforestated, in accordance with law and on its own merit. Such an exercise shall be completed within a period of four weeks from the date of receipt of copy of this order. No costs.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

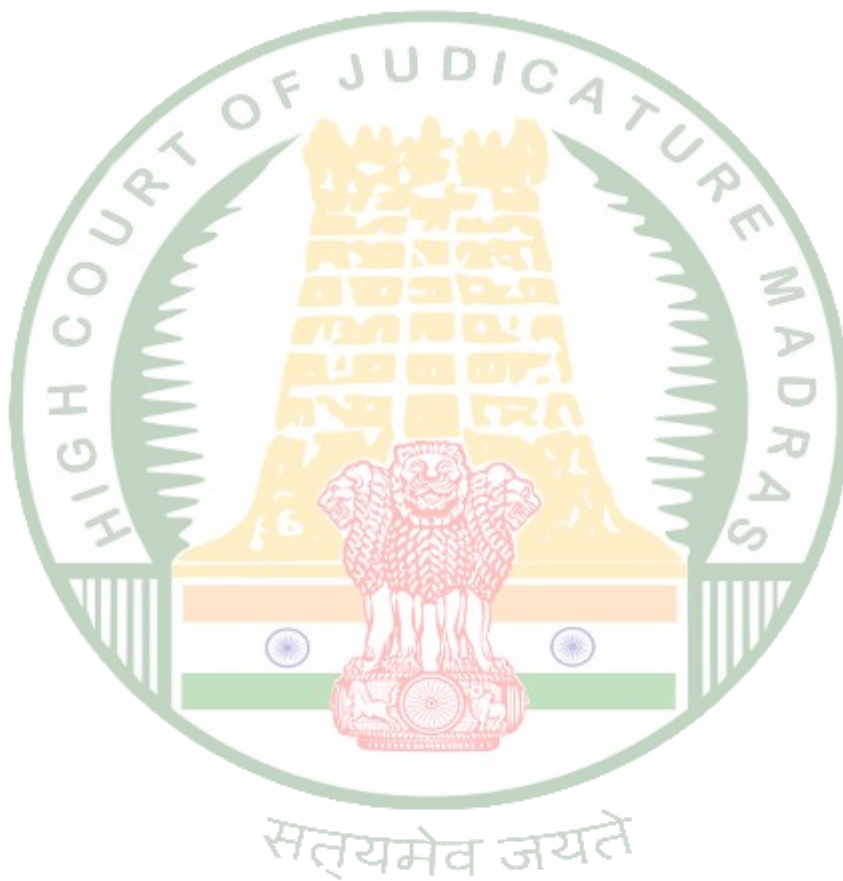
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(E) Padappai,
Kancheepuram District.
4. The Tahsildar,
Sriperumbudur,
Kancheepuram District.
5. Ms.G.Sofia Jothibai,
Tahsildar sriperumbudur.

6. The secretary Tamil nadu Mediation and condillation centre,
High court Madras

+1cc to Mr.R.Jayaprakash, Advocaate sr.no.36096
+2cc to Government pleader sr.no.35962 and 35960

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scd[col]
srg 03.08.2015



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