

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 13-04-2015

CORAM:

THE HONOURABLE MR. JUSTICE SATISH K. AGNIHOTRI  
AND  
THE HONOURABLE MR. JUSTICE M. VENUGOPAL

Writ Petition No.10572 of 2010  
and  
M.P.No.2 of 2010

1. PAPPAYAMMAL  
W/O.LATE CHENNIMALAI GOUNDER.

2. SELVARATHINAM  
D/O.LATE CHENNIMALAI GOUNDER PETITIONERS 1  
AND 2 ARE RESIDING AT NO.35 KATHIRAMPATTY  
ERODE TALUK & DISTRICT.

... Petitioner

Vs

1. THE DISTRICT COLLECTOR  
ERODE.

2. THE TAHSILDAR  
ERODE.

3. THE COMMISSIONER  
PANCHAYAT UNION ERODE.

4. THE PRESIDENT  
KATHIRAMPATTY VILLAGE PANCHAYAT  
KATHIRAMPATTY ERODE DISTRICT.

5. N.KRISHNAMOORTHY  
S/O K.R.NALLASAMY GOUNDER.

6. N.VENKATACHALAM  
S/O K.R.NALLASAMY GOUNDER.

7. MUTHUSAMY  
S/O.POR4APPANA GOUNDER.

8. CHINNASAMY  
S/O.PORAPPANA GOUNDER.
9. RANGASAMY S/O.PORAPPANA GOUNDER  
R5TOR9 ARE RESIDING AT KATHIRAMPATTI  
VILLAGE ERODE TK & DIST.[R5TOR9-IMPLD.AS  
PER ORD.DT.15/7/10 BY EDRJ&KKSJ IN MPs.  
3&4/10 in WP.10572/10.]

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for a writ of mandamus direct the respondents to remove the encroachment made in R.S.No.147/3 Kathirampatty Village Erode Taluk by implementing the order passed by the Assistant Director of Rural Development Erode in his proceedings Na.Ka.No.4456/09/A-6 dated 08.12.2009

For petitioner : Ms. R.C. Aarthi for M/s. K. Venkatesh

For respondents : Mr. P.S. Shiva Shanmugasundaram for RR1 and 2  
Mr. T. Seenivasan for R3  
Mr. T. Murugamanikkam for R4  
Mr. S. Saravanan for R5  
Mr. D. Selvaraju for R6  
RR7 to 9 - No appearance

ORDER

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

The only relief sought for in this petition is a direction to the Official respondents to remove the encroachments made in R.S.No.147/3 Kathirampatty Village Erode Taluk by implementing the order passed by the Assistant Director of Rural Development Erode in his proceedings Na.Ka.No.4456/09/A-6 dated 08-12-2009.

2. Pursuant to the notice dated 12-05-2010, ordered by this Court, the fourth respondent has filed his counter affidavit dated 13-09-2011, wherein in Paragraph No. 6, he has stated that steps were taken to remove the obstructions in the Odai, to deepen the same and mending the cart track portion in R.S.No.147/3 and also to retain the width of the existing cart track. However, the Tahsildar, the second respondent, in his counter affidavit dated 06-04-2015, has clearly stated that there is an encroachment and it is for the fourth respondent to undertake removal of encroachment.

3. Without going into the question as to whether the Tahsildar has to remove the encroachment or the fourth respondent has to remove, we direct both the respondents to work in coordination to ensure that the cart track portion in R.S.No.147/3 remains unencroached and also to remove the encroachment on cart track portion as well as on water bodies, if any, after affording appropriate opportunity of hearing to all the alleged encroachers, including respondent Nos.5 to 9. The entire exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order.

4. The writ petition is disposed of, accordingly. No costs. The connected miscellaneous petition is also closed.

Sd/-  
Assistant Registrar

//True Copy//

glp

Sub Assistant Registrar

To

1. THE DISTRICT COLLECTOR  
ERODE.
2. THE TAHSILDAR  
ERODE.
3. THE COMMISSIONER  
PANCHAYAT UNION ERODE.
4. THE PRESIDENT  
KATHIRAMPATTY VILLAGE PANCHAYAT  
KATHIRAMPATTY ERODE DISTRICT.

+1cc to Mr.K.Venkatesh, Advocate, S.R.No.20610  
+1cc to Mr.D.Selvaraja, Advocate, S.R.No.20298  
+1cc to Mr.T.Murugamanikkam, Advocate, S.R.No.20256  
+1cc to Mr.S.Saravanan, Advocate, S.R.No.20297  
+1cc to the Government Pleader, S.R.No.20427

Writ Petition No.10572 of 2010

RJ(CO)  
CA(23/04/2015)