

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.08.2015

CORAM

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE

AND

The Hon'ble MR.JUSTICE T.S.SIVAGNANAM

W.P.No.21489 of 2015

C.Muthukumar

.. Petitioner

-vs-

1.The District Collector,
Erode District.

2.The Tasildar,
Perundurai Taluk,
Erode District.

3.The President,
Pasuvampatti Panchayat,
Chennimalai Union,
Erode District.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus directing the respondents to take immediate action for the removal of the encroachments in Pond situated at S.F.No.89 and other encroachment in S.F.No.61 and S.F.No.62 of Pasuvapatti village, Perundurai Taluk, Erode District.

For Petitioner : Mr.S.Vinothkumar

For Respondents : Mr.STS.Moorthy
Govt. Pleader for R1 and R2
Mr.C.E.Prathap for R3

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ORDER

(Order of the Court was made by The Hon'ble Chief Justice)

The petitioner has filed the Public Interest Litigation seeking directions against the respondents to take action for removal of the encroachments in the pond situated at Survey No.89 as well as the other encroachments in Survey Nos.61 and 62 of Pasuvapatti village, Perundurai Taluk, Erode District. We had asked the petitioner to place on record materials to substantiate the existence

of the pond, but that material has not been placed.

2. We had simultaneously asked the respondents also to verify the position. Respondent No.2/Tahsildar, Perundurai Taluk has filed the counter-affidavit for himself as well as the District Collector, Erode District. In so far as Survey No.61 is concerned, the same is stated to be classified as "Salai Poramboke", which is vesting with the third respondent Panchayat and no encroachment is stated to be existing. In so far as Survey No.62 is concerned, the position is stated to be the same, but an old Tiled house and two cattle sheds are stated to be encroaching on some portion of the Salai Poramboke, for which appropriate proceedings are required to be taken and instructions are stated to have been issued to Pasuvapatti Panchayat/Respondent No.3.

3. Survey No.89 is stated to consist of Parts 1 and 2 and no encroachment is stated to be existing therein. Part 1 is stated to be classified as "Poramboke Road" and as per the revenue records, a burial ground is stated to be existing. Part 2 is stated to be classified as "Natham Poramboke", as per the order of respondent No.1 dated 01.06.2000. No land is stated to be classified as pond, lake or tank in these survey numbers, but Survey No.89/2 is classified as "Water Course".

4. The aforesaid, thus, shows that there are inconsistencies in so far as Survey No.89/2 is concerned.

5. The learned counsel appearing for respondent No.3 states that there is undoubtedly a pond existing and encroachments have been made, for which they have been writing to respondent Nos.1 and 2.

6. It is also admitted that the petitioner has made a representation on 24.04.2015 and when the area was required to be inspected, another representation dated 26.06.2015 was filed and before the action could be taken on the representation, the petitioner approached the Court. In paragraphs 8 and 9 of the counter-affidavit, it has been stated by respondent No.2 that if the water course was encroached by any private parties, appropriate action would be taken.

7. In the conspectus of the aforesaid, we are of the view that respondent No.1 should personally look into the matter and decide the representations made by the petitioner post inspection, after notice to all concerned by a speaking order. Needless to say that if any encroachments are found, including on water body/water course, the same should be dealt with in accordance with law expeditiously. This exercise be carried out within a maximum period of two months from the date of the receipt of the order by respondent No.1.

8. The writ petition, accordingly, stands disposed of. No costs.

Sd/-

Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

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To

1.The District Collector,
Erode District.

2.The Tasildar,
Perundurai Taluk,
Erode District.

3.The President,
Pasuvampatti Panchayat
Chennimalai Union,
Erode District.

+1 cc to Mr.S.Vinothkumar, Advocate (SR.No.41494)

1 CC to the Government Pleader, (SR.No.41335)

W.P.No.21489 of 2015

NM(CO)
cp (04.09.2015)

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