

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.10.2015

C O R A M

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI

AND

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN

W.P. No.24486 of 2015

and

M.P.No.1 of 2015

R. Babu

...Petitioner

Vs

1. State of Tamil Nadu
rep. By its Secretary to Government
Public Works Department
Fort St. George
Chennai 600 009.
2. The District Collector
Villupuram District
Villupuram.
3. The Tahsildar
Villupuram Taluk
Villupuram
4. The Junior Engineer
Public Works Department - Irrigation
Valavanur
Villupuram District.

5. B. Kalivaradhan

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking for the issuance of a writ of certiorarified mandamus to call for the records of the fourth respondent pertaining to the impugned notice dated 14/7/2015 and to quash the same and to direct the third and fourth respondents to remove the gate put up by the fifth respondent on the common passage which lies south of the petitioner's land Pallipudupattu Village, Villupuram Taluk & District.

For petitioner ... Mr.S.Balasubramanian

For respondents... Mr.N.Sakthivel,
Government Advocate
for R.R.1 to 4.

Mr.N.Suresh for R.5.

ORDER

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

Challenging the correctness of the notice dated 14th July, 2015 issued under Section 6(1) of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007 (for short "the Act"), the petitioner has filed this petition. The petitioner has further sought a direction against the fifth respondent to remove the gate put up by him on the common passage.

2 The principal contention of the petitioner is that the petitioner has been singled out for the purpose of removal from the alleged encroachment of water course. The other persons, who have occupied the land, in question, by way of encroachment have been granted patta, thus, permitting them to continue in possession illegally. Accordingly, the impugned notice issued under Section 6(1) of the Act be quashed. It is further contended, as aforestated, that the fifth respondent has put up a gate, blocking the common passage and the same may be removed.

3 The fourth respondent, in his counter affidavit dated 20th August, 2015, would submit that the petitioner had encroached the western side at R.S.No.481 to an extent of 68 cents of poramboke land and is cultivating the Goa crop, which is classified as Eri poramboke. The encroachment of the petitioner deserves to be evicted after affording an opportunity of hearing. Before issuance of the impugned notice, the petitioner was given due opportunity of hearing. The fifth respondent had also made encroachment by putting a gate. The authorities are taking due action to remove the encroachment.

4 Subsequently, an action taken report was filed on 28th September, 2015, as under :

"4.It is further submitted that on 26.09.2015 at about 11.00 am, we started to carry out the removal of encroachments made by the petitioner as well as the Vth respondent in S.F.No.481 of Pallipudupattu Village, Villupuram Taluk. It is further submitted the petitioner namely Mr.R.Babu encroached about 68 cents, Mr.Kamaraj has encroached

about 25 cents and the Vth respondent namely Mr.Kalivaradhan encroached about 3 cents (including the gate). We completed the process at about 5.00 p.m on same day. In all the fields the encroachments fully removed and resumed as Irrigation Tank.

5.It is further submitted the IVth respondent will take necessary steps to protect the same as Irrigation tank without any further encroachment."

5 In view of the foregoing, since the encroachment has already been removed, nothing survives for adjudication, at this stage. Thus, the writ petition stands disposed of. At this stage, it is submitted by the learned counsel for the petitioner that there are several encroachers and the official respondents have not initiated any step for their removal. Thus, a direction be issued to initiate steps for removal of all illegal encroachments made by several persons in the water course.

6 Without expressing any opinion on the merits of the case, as no other material except self-serving statement made by the petitioner is before us and in the fact situation of the case, we direct the official respondents 1 to 4 to take all necessary steps, in accordance with law and on its own merit, to ensure that no encroachment continues on any water body or natural habitats, which ought to be protected from the unauthorised encroachment by any person. Such exercise shall be done at the earliest. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

vvk

To

1. The Secretary to Government
State of Tamil Nadu
Public Works Department
Fort St. George
Chennai 600 009.

2. The District Collector
Villupuram District
Villupuram.

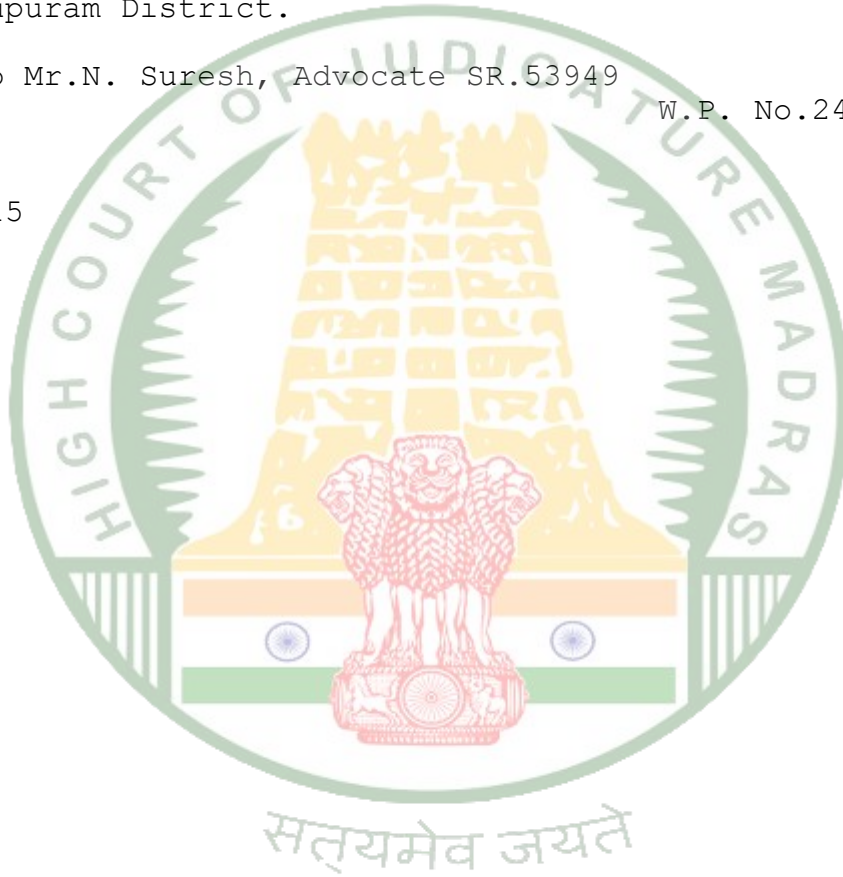
3. The Tahsildar
Villupuram Taluk
Villupuram

4. The Junior Engineer
Public Works Department - Irrigation
Valavanur
Villupuram District.

+ 1 cc to Mr.N. Suresh, Advocate SR.53949

W.P. No.24486 of 2015

SK(CO)
EU 20.10.15



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