

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2015

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE DR. JUSTICE P. DEVADASS

W.P. No.32565 of 2015

B. Sumathi

Petitioner

Vs.

- 1 The District Collector
Namakkal District, Namakkal.
- 2 The Superintendent of Police,
O/o.The Superintendent of Police,
Namakkal.
- 3 The Revenue Divisional Officer
Namakkal Revenue Division, Namakkal.
- 4 The Tahsildar
Rasipuram Taluk Namakkal District.
- 5 The Deputy Superintendent of
Police, Rasipuram Camp Office,
Rasipuram,
Namakkal District.
- 6 The Chairman
Namagiripettai Panchayat Union,
Rasipuram
Taluk, Namakkal District.

Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of mandamus directing the 1st respondent to instruct the respondents 3 and 4 to carry out and complete the process of removal of encroachments in Survey Nos.422/1 [Government-Poramboke (Kallankuthu)] 422/3 [Government-Tharisu] 422/7 [Government-Tharisu Kallankuthu] and 423/1 classified as [Government-Tharisu (Kallankuthu)] and Survey No.362/1 (Government-Tharisu) in Mangalapuram Village

Rasipuram Taluk Namakkal District as per the 4th respondent Letter dated 15.7.2015 in Na.Ka. No.8510-2015(B3) dated 15.7.2015 by providing adequate police protection for the same by the respondents 2 and 5 within a reasonable time to be fixed.

For petitioner Mr. R. Neelakandan

For respondents Mr.P.S.Sivashanmugasundaram
Special Government Pleader

O R D E R

(delivered by SATISH K. AGNIHOTRI, J.)

With the consent of the learned counsel for the parties, the writ petition is taken up for final disposal.

2 The petitioner, who is stated to be a resident of the area in question, seeks a direction to the first respondent to instruct respondents 3 and 4 for removal of the alleged encroachments made in Survey Nos.422/1 [Government-Poramboke (Kallankuthu)], 422/3 [Government-Tharisu], 422/7 [Government-Tharisu Kallankuthu] and 423/1 classified as [Government-Tharisu (Kallankuthu)] and Survey No.362/1 (Government-Tharisu) in Mangalapuram Village, Rasipuram Taluk Namakkal District.

3 According to the petitioner, the fourth respondent has also made a request to the fifth respondent on 15 July 2015 for extending police protection to ensure removal of the encroachments. Thereafter, no steps have been taken by the respondents 3 and 4. The encroachments still continue unabatedly without any action on the part of the authorities. Hence, this writ petition for the aforestated relief.

4 Pursuant to the notice of this Court dated 13 October 2015, the Tahsildar had filed a counter affidavit stating as under :-

"It is humbly submitted that the writ petitioner's husband R. Balasubramanian herein made representation dated 31.8.2015 and to the first respondent District Collector to remove the encroachments made in 422/1, 423/1 and 362/1. The Tahsildar fourth respondent made necessary survey and issued notice dated 29.10.2015 under Section 7 of the Tamil Nadu Encroachment Act, 1905 by registered post to the encroachers viz., P. Chellammal, wife of Parameshwaran (1) P. Chandran, S/o Periyasamy (2) Arul

Mugan, S/o Sadayan (3) and called upon them to submit explanation within 15 days that why the encroachment made by them shall not be removed. It is humbly submitted that the encroachments are made in Government land and hence the notice under Section 7 of the Act is issued to them. On receipt of their reply, the action will be initiated under Section 6 of the Act, for removing the encroachments made by them".

5 As per the communication dated 15 July, 2015 addressed by the fourth respondent to the fifth respondent, it appears that the fourth respondent was aware of the encroachments and also sought police protection. However, what necessitated the fourth respondent to issue fresh notice, after issuance of notice by this Court, is not disclosed in the counter affidavit filed by the fourth respondent. We presume that the aforesaid action, in fact, was initiated only after receipt of the notice of this Court.

6 Be that as it may, since notice has been issued under Section 7 of the Tamil Nadu Land Encroachment Act, 1905, there is no reason to adjudicate the dispute at this stage. However, we direct the first respondent to ensure that the action initiated by the fourth respondent is taken to its logical conclusion at the earliest. It is further directed that all the encroachments, which are made on the aforestated Government land, be removed in accordance with law after affording an opportunity of hearing to the concerned parties, within a period of four weeks from the date of receipt of a copy of this order.

The writ petition stands disposed of with the above direction. No costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

- 1 The District Collector
Namakkal District, Namakkal.
- 2 The Superintendent of Police,
O/o.The Superintendent of Police, Namakkal.
- 3 The Revenue Divisional Officer
Namakkal Revenue Division, Namakkal.
- 4 The Tahsildar\
Rasipuram Taluk Namakkal District.
- 5 The Deputy Superintendent of
Police, Rasipuram Camp Office, Rasipuram ,
Namakkal District.
- 6 The Chairman
Namagiripettai Panchayat Union, Rasipuram
Taluk, Namakkal District.

+1cc to Mr.R. Neelakandan, Advocate, S.R.No.64014

+1cc to the Government Pleader, S.R.No.64257

VSN(CO)
EU(14/12/2015)

W.P. No.32565 of 2015

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