

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.11.2015

CORAM:

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI

and

THE HON'BLE DR.JUSTICE P.DEVADASS

W.P.No.35306 of 2015

S. Sekar

...Petitioner

Vs.

1 The District Collector
Erode District
Erode

2 The Tahsildar
Erode Taluk
Erode, Erode District

3 Eswari

...Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of mandamus directing the respondents 1 and 2 to remove the encroachment made by the third respondent in R.S. No.55/1, Rayapalayam Village, Erode Taluk and District.

For petitioner Ms. R. Hemalatha
for Mr.C.Prakasam

For RR 1 & 2 Mr.P.S. Sivashanmugasundaram
Special Government Pleader

O R D E R

(delivered by SATISH K. AGNIHOTRI, J.)

Mr.P.S. Sivashanmugasundaram, learned Special Government Pleader, accepts notice for respondents 1 and 2. Notice to the third respondent is dispensed with at this stage as no adverse order is passed against her in this writ petition. Thus, with the consent of the learned counsel for the petitioner and the learned Special Government Pleader appearing for respondents 1 and 2, the writ petition is taken up for final disposal, at the admission stage itself.

2. The petitioner's grievance is that by his representation dated 03 September 2015, the District Collector, Erode, was informed that the third respondent had encroached the Odai poramboke situated at R.S.No.55, Rajapalayam Village and constructed a hut. The District Collector, Erode, in turn, directed the Tahsildar, Erode, on 16

September 2015, to examine the petitioner's representation and take appropriate action. Despite the aforesaid direction of the District Collector, Erode, no step has been initiated by the Tahsildar, till date. Thus, the instant writ petition.

3. At this stage, we are not in a position to adjudicate the issue as complete facts are not before us to come to any conclusion as to whether there is a hut or whether the land in question is an Odai poramboke, since the petitioner has made his representation to the authorities concerned, too tersely, i.e., in just two sentences. It is for the authorities to have a spot inspection and verify as to whether any encroachment, as alleged by the petitioner is made in the Odai poramboke. If it is so, necessary steps are required to be initiated in accordance with law and on merits, after affording an opportunity of hearing to the alleged encroacher, viz., the third respondent and thereafter, consequential action has to be taken, if need be. It is ordered accordingly. Such exercise shall be completed 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 directions.
Costs made easy.
Cad

Sd/-
Assistant Registrar (C.O)

/True Copy/

Sub-Assistant Registrar

To

1 The District Collector
Erode District
Erode

2 The Tahsildar
Erode Taluk
Erode, Erode District

+1 C.C. To Mr.C.Prakasam, Advocate in SR.NO.60680

+1 C.C. To Government Pleader in SR.NO.60293

W.P. No.35306 of 2015

AR(CO)

sd : 19/11/2015