

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:27.02.2015

CORAM:

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

W.P. No.5261 of 2015

K. Perumal

...Petitioner

Vs

- 1 State of Tamil Nadu
represented by its Secretary
Revenue Department
Secretariat
Chennai 600 009
- 2 The District Collector
Salem
- 3 The Tahsildar, Salem
- 4 The Taluk Surveyor, Salem
- 5 The village Administrative Officer
Nazhikalpatti Village, Salem District
- 6 The Inspector of Police
Mallur Police Station
Salem District
- 7 V. Srinivasan
- 8 V. Sekar
- 9 K. Ramesh

...Respondents

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Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondents 1 to 5 to remove the encroachments made by the respondents 7 to 9 in public road which has been situated at Survey No.40/4G, viz., Pillayar Koil Street, Nazikkalpatti Village, Salem Taluk and District with the help of the 6th respondent by considering the petitioner's representation.

For petitioner : Mr. R. Ezhilarasan

For RR 1 - 6 : Mr. N. Sakthivel
Government Advocate

ORDER

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

Mr. N. Sakthivel, learned Government Advocate, takes notice for respondents 1 to 6. With the consent of the learned counsel for the petitioner and the learned Government Advocate appearing for respondents 1 to 6, the writ petition is taken up for final disposal, at the admission stage.

2 The petitioner, claiming to be a resident of Survey No.40/40G at Pillayar Koil Street, Nazhikkalpatti Village, Salem Taluk and District, submits that he had made a representation dated 02.04.2014 to the Collector, Salem District, pointing out the illegal encroachment made in the cart track situated in Survey No.40/4G of the aforesaid village. Considering the said representation, the Additional Personal Assistant to the Collector, by memo dated 02.09.2014, informed the Tahsildar, the third respondent herein, to inspect the area after measuring and proper survey and to take appropriate action to remove encroachment, if any, after affording an opportunity of hearing to the concerned alleged encroachers.

3 It appears that some proceedings were initiated and also the statement of the petitioner was obtained on 29.08.2014. According to the petitioner, after recording his statement, no further action has been taken. The office of the Collector further sent a memo dated 02.09.2014 to the Tahsildar, the third respondent, for initiating action for removal of the encroachment. Finding no response and action on the part of the authority, the petitioner is constrained to move this Court by filing the instant writ petition.

4 We have examined the facts and pleadings after considering the submissions made by the learned counsel for the petitioner as

well as the learned Government Advocate appearing for respondents 1 to 6.

5 We are of the considered view that if a complaint is made by a resident of an area, pointing out encroachment on a public land, the public authorities are under an obligation to act quickly and take action for removal of encroachment. If the encroachment is not removed immediately, the encroacher may, subsequently, claim right to the place in question.

6 Thus, we direct the Tahsildar, Salem, the third respondent herein, to take action forthwith, after issuing proper notice to the alleged encroachers for removal of encroachment. The entire exercise shall be completed within a period of six weeks from today.

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

Sd/-
Deputy Registrar(J)

//True Copy//

Sub Assistant Registrar

cad

To

- 1 The Secretary
State of Tamil Nadu
Revenue Department
Secretariat, Chennai 600 009
- 2 The District Collector
Salem
- 3 The Tahsildar, Salem
- 4 The Taluk Surveyor, Salem
- 5 The Village Administrative Officer
Nazhikalpatti Village, Salem District

6 The Inspector of Police
Mallur Police Station,
Salem District

1 CC to Mr. R. Ezhilarasan, Advocate SR.No. 11003

1 CC to the Government Pleader, SR.No. 11148

W.P. No.5261 of 2015

SCD (CO)
PSI (10.03.2015)



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