

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2015

CORAM:

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.P. No.5444 of 2014

P. Jayaraman

Petitioner

vs.

1 The Assistant Executive Engineer
Public Works Department
Sarabaganga River Basin
Water Resources Organisation
Sub-Division
Attur-636 102, Salem District

2 The Tahsildar
Attur Taluk
Taluk Office
Attur 636 102
Salem District

3 Ganesan

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the first respondent to exercise the powers vested in him under Section 7 of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007 and remove the encroachment caused by the third respondent in the Kallaru Odai running in S.No.62, Thenutravari Hamlet, Kattukottai Village, Attur Taluk.

For petitioner Mr. T. Murugamanickam

For RR 1 & 2 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 and 2. It is not necessary to issue notice to the third respondent, since no action can be taken by the authorities without affording an opportunity of hearing to the third respondent. Thus, with the consent of the learned counsel for the petitioner as well as the learned Government Advocate, we are passing this order at the admission stage itself, without issuing notice to the third respondent.

2 This writ petition is filed seeking a writ of mandamus directing the first respondent to exercise the powers vested in him under Section 7 of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007 and remove the encroachment caused by the third respondent in the Kallaru Odai running in S.No.62, Thenutravari Hamlet, Kattukottai Village, Attur Taluk.

3 The case of the petitioner is that on the basis of his representation dated 17.10.2014 made to the Collector, Salem District, the Revenue Divisional Officer, Attur, had sent a communication on 01.11.2014 to the Assistant Executive Engineer, the first respondent, to take action in respect of removal of the encroachments as complained by the petitioner to an extent of 30 metres in the aforesaid survey number. Despite such clear direction from Revenue Divisional Officer, the first respondent has not done anything.

4 It appears that such a communication issued by higher authorities have no value for subordinate officers in the Government.

5 The learned Government Advocate appearing for respondents 1 and 2 submits that immediate action will be taken after affording an opportunity of hearing to the third respondent on merits and in accordance with law, if it is found that the petitioner's complaint in respect of the land encroachment is correct. Thus, proper step for removal of the encroachment will be taken within a period of four weeks.

6 In view of the above submission made by the learned Government Advocate, this writ petition is disposed of by directing the respondents 1 and 2 to take immediate action after affording an opportunity of hearing to the third respondent on merits and in accordance with law, if it is found that the petitioner's complaint

in respect of the land encroachment is correct. The entire exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

cad

To

- 1 The Assistant Executive Engineer
Public Works Department
Sarabaganga River Basin
Water Resources Organisation
Sub-Division
Attur-636 102, Salem District
- 2 The Tahsildar
Attur Taluk
Taluk Office
Attur 636 102, Salem District

1 cc to Mr.T. Murugamanickam, Advocate, Sr. 11356

1 cc to Government Pleader, sr. 11532

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