

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.03.2015

CORAM

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

W.P.No.5603 of 2015

Senthamilselvi

...Petitioner

Vs.

1. The District Collector,
Salem District, Salem.

2. Chinnappan

...Respondent

This writ petition is filed under Article 226 of the Constitution of India to issue a Writ of mandamus directing the first respondent to consider and take action on the petitioner's representation dated 10.11.2014.

For Petitioner : Mr.R.Asaithambi

For Respondents : Mr.P.S.Sivashanmugasundaram,
Spl.G.P for R-1

Mr.T.Murugamanickam for R-2

ORDER

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

The petitioner claiming to be a resident of Oorandivalasu village, Arasanatham post, Attur Taluk, Salem District, has come up with this writ petition, seeking a direction to the first respondent,

i.e. the District Collector, Salem to consider and take action on the petitioner's representation dated 10.11.2014. In the said representation, the allegation of the petitioner is that the second respondent had encroached upon the river poramboke, obstructing his way as well as other similarly situated persons to their respective lands.

2. Pursuant to the earlier representation dated 3.1.2012 to Tahsildar, the Tahsildar vide communication dated 11.5.2012 informed the Executive Engineer, Public Works Department, Attur Taluk to take necessary enforcement action for removal of encroachment in the Odai Poramboke (River poramboke), which comes under the jurisdiction of the department. The Public Works Department, by written communication dated 6.6.2012 asked the Tahsildar to send Form-1 giving complete details of the land allegedly encroached by the second respondent. The petitioner had also deposited the cost towards expenses for the land survey on 11.7.2012. The Tahsildar vide letter dated 19.10.2012 called upon the police station to provide security for the purpose of survey. Thereafter, the Public Works Department by communication dated 6.11.2012 to Tahsildar informed that the boundaries of the encroachment in Survey No.93 does not come under the jurisdiction of the Public Works Department. Thus, it is for the revenue department-Tahsildar to take necessary steps for removal of encroachment.

3. The Tahsildar asked the police station for adequate police protection for removal of encroachment on 31.5.2013. It appears that thereafter, nothing has happened and files have been travelling from one place to another place, which has driven the petitioner to file the instant representation dated 10.11.2014.

4. The first respondent in his counter affidavit dated 27.3.2015 recording that there were several encroachments as under, had issued notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905. Thereafter, an appropriate enforcement action will be taken on consideration of the representation, if any made by the alleged encroacher.

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S. No.	Name of the Encroacher	Survey No.	Classification	Total Extent	Enjoyment extent	Type of Enjoyment
1	Palanivel S/o.Kandasamy	93	Govt. Odai Promboke	0.78.5	0.03.0	Agricultural
2	Rani W/o.Chinnasamy	93		0.78.5	0.00.5	Agricultural
3	Chinnappan S/o.Palanimuthu (2 nd Respondent in this Writ)	93	Govt. Odai Promboke	0.78.5	0.04.5	Bore Patti (Vagai trees, Coconut trees) - respondent -2
4	Senthamilselvi W/o.Raendran	93	Govt. Odai Poramboke	0.78.5	0.07.5	Pathway (individual encroachment) Plaintiff
5	Sundresan S/o I.Mannathi Padayachi	93	Govt. Odai Promboke	0.78.5	0.02.5	Agricultural
6	Nataraan S/o.Kandasamy	93	Govt. Odai Promboke	0.78.5	0.00.5	Agricultural
7	Raendran S/o.Angamuthu	93	Govt. Odai Promboke	0.78.5	0.02.5	Agricultural

5. The learned counsel for the second respondent would submit that he be permitted to raise the question of jurisdiction also in his representation.

6. Without expressing any opinion on the merits of the case, we are of the view that if objection in respect of the jurisdiction is raised, the same may also be considered by the authorities before

passing the order under Section 6 of the Act and taking consequential enforcement action. Such exercise shall be completed within a period of four weeks from the date of receipt of copy of the order. This writ petition is, accordingly, disposed of. No costs.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

vvk

To

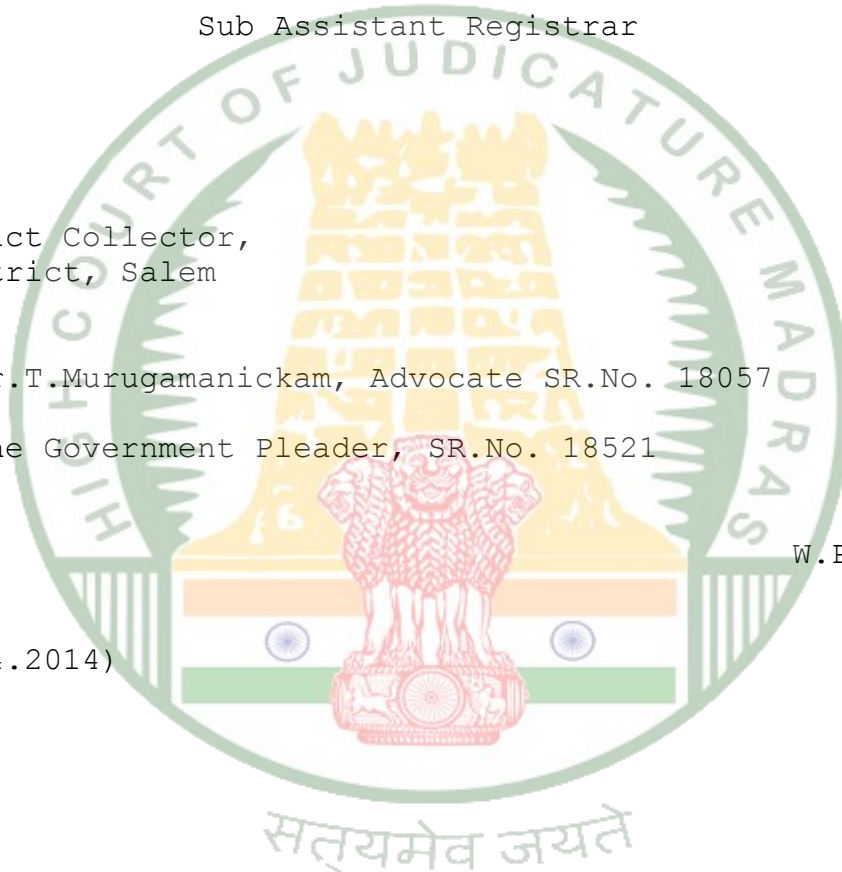
The District Collector,
Salem District, Salem

1 CC to Mr.T.Murugamanickam, Advocate SR.No. 18057

1 CC to the Government Pleader, SR.No. 18521

W.P.No.5603 of 2015

SSI (CO)
PSI (11.04.2014)



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