

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2015

CORAM

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE

AND

The Hon'ble MR.JUSTICE M.M.SUNDRESH

W.P.No.15781 of 2012

and

M.P.Nos.1 of 2012 and 1 of 2013

V.Subramaniam ... Petitioner

Vs.

- 1.The State of Tamil Nadu,
rep. by its Secretary to Department of Revenue,
Fort St. George,
Chennai-600 009.
 - 2.The Collector of Nilagiri District,
Udhagamandalam,
Nilagiri District.
 - 3.The Revenue Divisional Officer,
Gudalur-643 212,
Nilagiri District.
 - 4.The Tahsildar,
Gudalur Taluk,
Gudalur-643 212.
 - 5.The Executive Officer,
Gudalur 3rd Grade Municipality,
Gudalur-643 212,
Nilagiri District.
 - 6.The Executive Officer,
Devarshola Town Panchayat,
Devarshola,
Nilagiri District.
- .. Respondents.

Petition under Article 226 of the Constitution of India praying for issue of Writ of Mandamus forbearing the respondents from dumping Sewage, garbage or other filth in the Survey lands in Lands in 230/1, 230/3, 232/B, 231/1, 231/2, 231/3, 231/4 and 232/3 in Padanthara village pursuant to the proceedings of the 2nd respondent in proceedings in Mu.Mu./18130/2008/Yu4, dated 01.4.2010 and the proceedings of the 3rd respondent in proceedings in Na.Ka.Aa1.. En.4172/2010 dated 05.7.2010 and consequently grant such other relief as deemed fit and proper by this Court.

For Petitioner : No Appearance

For Respondents : Mr.V.R.Kamalanathan
Addl. Government Pleader for R1 to R5
Ms.V.Bhavani Subbaroyan for R6

O R D E R

(Order of the Court was made by The Hon'ble Chief Justice)

The petitioner has filed the present petition seeking restraint against the respondents from dumping sewage, garbage or other filth in the survey lands in S.F.Nos.230/1, 230/3, 232/B, 231/1, 231/2, 231/3, 231/4 and 232/3 in Padanthorai village, Gudalur Taluk.

2. In the counter-affidavit, it has been stated that Gudalur Municipality requested 4 acres of land in S.F.No.232/3 of Padanthorai village, Gudalur Taluk for starting Solid Waste Management Project for Gudalur Municipality. The said land is classified as Anatheenam in revenue records and is under the control of Revenue Department and the said land lies within Devershola Town Panchayat. No other suitable land was available within Gudalur Municipality for implementation of Solid Waste Management Project. The Revenue Divisional Officer, Gudalur inspected the site and recommended for implementation of the Solid Waste Management Project. Objections were received from the petitioner and the public of Selukkadi, Vedanvayal and other areas. Thus, an alternative site was explored, but the same was not found. The concerned officers, including the Deputy Director of Health and Family Welfare, The Nilgris opined and recommended for implementation of the Solid Waste Management Project in the land already selected and thus, permission was granted.

3. In view of the observations of this Court on 01.6.2012 to look into the possibilities of alternative arrangement for dumping the garbages, the officials once again re-visited the issue, but no other site has been found.

4. It is averred that the petitioner along with two others are encroachers in the land in S.F.No.238/2, which is classified as Anatheenam poramboke, located within the vicinity of the proposed site for implementation of the Solid Waste Management Project. The petitioner also owns land measuring an extent of 0.14.0 Hectares in S.F.Nos.239/1A1 and 0.19.0 Hectares in S.F.No.239/3A2 and these persons have also benefitted under one time scheme for regularization of encroachments and thus, it is pleaded that the encroacher of a Government land, cannot stop a project which is in public interest through a public interest litigation.

5. In view of the aforesaid facts and circumstances, we are of the view that larger public interest of Solid Waste Management Project outweigh the inconvenience, if any, which may be caused to the petitioner, especially, in the circumstance where the petitioner despite being the land owner is an encroacher of poramboke land and has in fact, even been given a patta under one time scheme for regularization of encroachment.

6. The writ petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

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To

1.The Secretary to Department of Revenue,
Fort St. George, Chennai-600 009.

2.The Collector of Nilagiri District,
Udhagamandalam, Nilagiri District.

3.The Revenue Divisional Officer,
Gudalur-643 212, Nilagiri District.

4.The Tahsildar,
Gudalur Taluk, Gudalur-643 212.

5.The Executive Officer,
Gudalur 3rd Grade Municipality,
Gudalur-643 212, Nilagiri District.

6.The Executive Officer,
Devarshola Town Panchayat,
Devarshola, Nilagiri District.

1 cc to M/s.P.V. Ravichandren, Advocate, Sr. 11774
1 cc to M/s.V. Bhavani Subbarayan, Advocate, sr. 11070
1 cc to Government Pleader, Sr. 11046

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MP (CO)
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