

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.12.2015

CORAM

THE HON'BLE Mr. JUSTICE SATISH K.AGNIHOTRI
and
THE HON'BLE Dr. JUSTICE P.DEVADASS

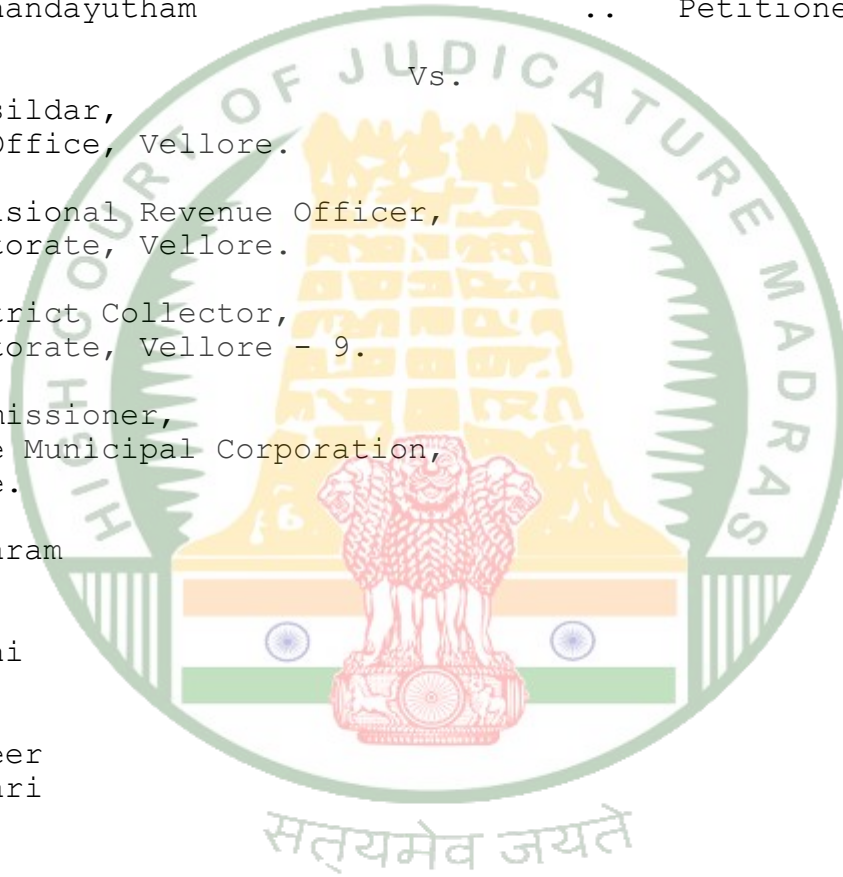
W.P.No.29821 of 2010

K.K.Balathandayutham .. Petitioner

Vs.

- 1.The Tahsildar,
Taluk Office, Vellore.
- 2.The Divisional Revenue Officer,
Collectorate, Vellore.
- 3.The District Collector,
Collectorate, Vellore - 9.
- 4.The Commissioner,
Vellore Municipal Corporation,
Vellore.
- 5.Chidambaram
- 6.Simon
- 7.Ethiraj
- 8.Subramani
- 9.Kosavan
- 10.Moonna
- 11.Syed Beer
- 12.Yogeswari
- 13.Manni
- 14.Rogini
- 15.Sogar
- 16.Bhavani
- 17.Devaraj
- 18.Munusamy
- 19.The General Manager,
Southern Railway, Chennai - 3.

- 20.The Divisional Railway Manager,
Southern Railway,
Salem Division, Salem.
- .. Respondents
(Respondents 5 to 18 impleaded as
per order dated 22.11.2013 in



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M.P.No.1 of 2011 in W.P.No.29821 of 2010)

(Respondents 19 and 20 impleaded as per
order dated 14.08.2015 in

M.P.No.1 of 2015 in W.P.No.29821 of 2010)

Petition filed under Article 226 of The Constitution of India praying to issue a writ of mandamus to direct the respondents to remove the illegal encroachments in T.S.No.88 Channel Poramboke (Kalvai poramboke) and to take appropriate measures to prevent the rain water and sewage water getting diverted the land situated in Town Survey Nos.88, 89, 90/1 and 91, Revenue Ward No.5, Block No.3, Municipal Ward No.10, Bishop David Nagar, South Vellore Town, Vellore Town and further to take appropriate actions to remove sintex water tank and 13 feet tar road laid by the Vellore Municipality in the petitioner's aforesaid land.

For Petitioner .. Mr.V.Bharathidasan

For Respondents ... Mr.P.S.Sivashanmugha Sundaram,
Spl. Govt. Pleader for R1 to R3
Ms.P.Shanthi for R4
Mr.S.R.Balaji for R6, R8, R9, R13
and R18
Mr.P.T.Ramkumar for R19 & R20
R5 - No appearance

ORDER

(delivered by SATISH K.AGNIHOTRI, J.)

With the consent of the learned counsel for the petitioner, learned Special Government Pleader appearing for respondents 1 to 3, learned Standing Counsel appearing for the fourth respondent, learned counsel appearing for respondents 6, 8, 9, 13 and 18 and also the learned Standing Counsel appearing for respondents 19 and 20, the writ petition is taken up for final disposal. Though the fifth respondent was served with notice and entered appearance through counsel, there is no representation on behalf of him. Despite service of notice and printing the names of respondents 7, 10 to 12 and 14 to 17, there is no representation on behalf of them. Since no adverse order is passed against them, this writ petition is taken up for final disposal without hearing them.

2.The instant writ petition is filed in December, 2010. Thereafter, notice was issued to all the parties. Belatedly, replies were filed by the official respondents, ignoring completely the urgency involved in the matter.

3.The Tahsildar, Vellore, in his counter affidavit dated 23 April 2015, has taken a stand that the land in Survey No.88 comes under the jurisdiction of the Southern Railway as the same belongs to the Railway. In respect of other lands, it is stated that the Municipal Corporation is competent to remove the encroachment as the said lands vest in the Corporation. On the other hand, respondents 6, 8,9 and 13 submits that their possession in the land in question is lawful. The learned standing counsel appearing for the Southern Railway, on the basis of the counter affidavit filed on 15 December 2015, submits that the land does not belong to Railway. Be that as it may, the ownership and nature of the land are disputed. In such a situation, it is not possible to adjudicate and pass a final direction.

4.In the given fact situation, we deem it fit and proper to direct the District Collector, Vellore to examine the facts and take a decision in respect of the ownership and also nature of the land. On the basis of the said decision, the respective competent authorities shall be directed to initiate process for removal of the encroachment, if any, in accordance with law. It is needless to state that the Collector, while considering the issue involved herein, shall afford an opportunity of hearing to all the concerned, including the writ petitioner.

5.With the above observation and direction, the writ petition shall stand disposed of. No costs.

Sd/-

Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

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To

1.The Tahsildar,
Taluk Office, Vellore.

2.The Divisional Revenue Officer,
Collectorate, Vellore.

3.The District Collector,
Collectorate, Vellore - 9.

4.The Commissioner,
Vellore Municipal Corporation,
Vellore.

5.The General Manager,
Southern Railway, Chennai - 3.

6.The Divisional Railway Manager,
Southern Railway,
Salem Division, Salem.

+1 cc to M/s.V.Bharathidasan, Advocate, sr.67889

+1 cc to M/s.P.T.Ramkumar, Advocate, sr.67841

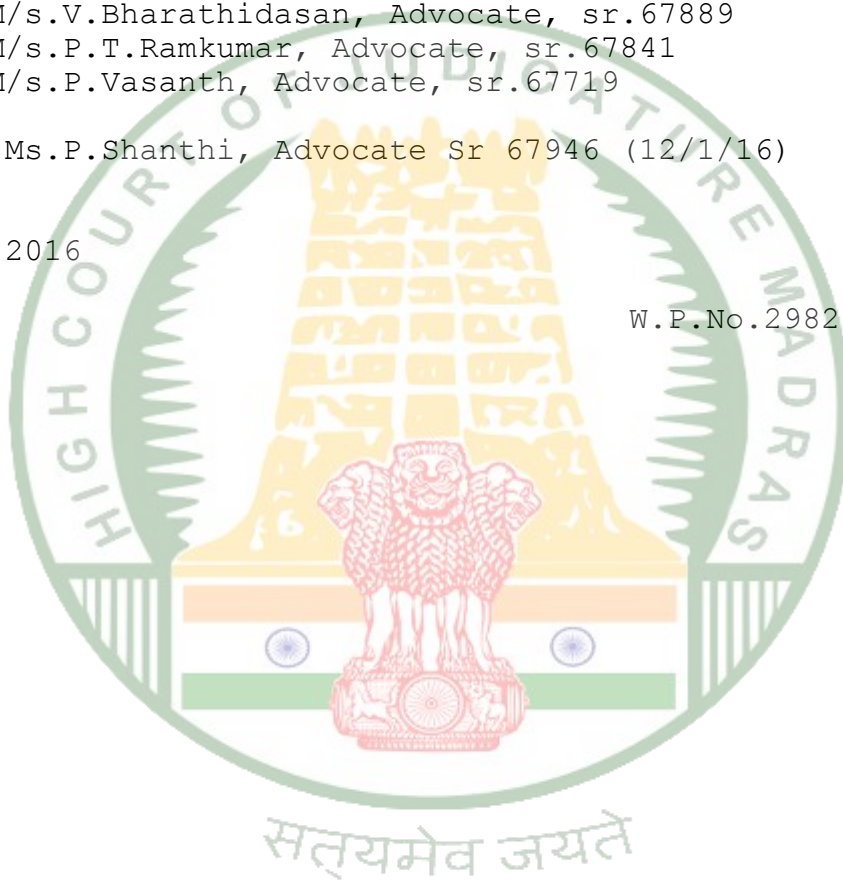
+1 cc to M/s.P.Vasanth, Advocate, sr.67719

+ 1 cc to Ms.P.Shanthi, Advocate Sr 67946 (12/1/16)

ak co

kra 04.01.2016

W.P.No.29821 of 2010



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