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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.10.2015

CORAM :

THE HONOURABLE MR.JUSTICE R.SUDHAKAR
and
THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Writ Petition (MD) No.19776 of 2015

P.Chokalingam ... Petitioner

Vs.

1.The District Collector,
Dindigul District,
Dindigul.

2.The Revenue Divisional Officer,
Palani Taluk, Palani.

3.The Block Development Officer (Ke.Voo),
Thoppampatti Union,
Thoppampatti, Palani Taluk,
Dindigul District.

4.The Tahsildar,
Palani Taluk,
Dindigul District.

5.The President,
Thalaiyuthu Village,
Palani Taluk,
Dindigul District.

6.A.Nattudurai
7.A.Nachimuthu ... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents no. 1 to 5 to remove the encroachment and close the proposed Septic Tank made by the respondents no 6 and 7 on the basis of the petitioners representation dated 15.5.2014 within the time frame stipulated by this court.

For Petitioner : Mr.S.Karthik
For Respondents 1&3 : Mr.A.K.Baskarapandian,
Special Government Pleader.
For Respondents 2&4 : Mr.K.Guru, AGP

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ORDER

(Order of the Court was made by R.SUDHAKAR,J.)

The petitioner has come forward with this writ petition, seeking for a direction to the respondents 1 to 5 to remove the encroachment and close the proposed Septic Tank made by the respondents no 6 and 7 on the basis of the petitioners representation dated 15.5.2014.

2.In respect of the relief sought for by the petitioner, learned Special Government Pleader, submitted that the petitioner has to approach the competent authority seeking redressal of his grievance as per G.O.Ms.No.540, Revenue LD6(2) Department, dated 04.12.2014, wherein the Government has placed a mechanism to remove encroachments on Government lands, pursuant to the direction of this Court in W.P.No.26722 of 2013, dated 08.10.2014.

3.On an earlier occasion, this Court, while dealing with a similar issue relating to removal of encroachments on Government lands, in W.P.No.26722 of 2013, by order dated 08.10.2014, issued following direction to the Government:-

"The State Government must set forth a mechanism where aggrieved persons can complain and remedial action can be taken. Promptly, they are called upon do so. We have thus, requested the learned Government Pleader to enter appearance in this matter and obtain instructions from the State Government, in what manner such an authority be set up, due publicity given to the authorities where aggrieved persons would be first required to make their representations and a remedial action and reasoned response be communicated within a period of 30 days from such complaint being made. Once such a mechanism is set up, there would be no occasion to entertain a PIL, on the first instance in such matters as an administrative machinery would be available for remedying the position".

4.Pursuant to the above said direction, the Government passed a Government Order in G.O.Ms.No.540, Revenue LD6(2) Department, dated 04.12.2014, wherein the Government accorded sanction for constitution of Redressal Committees for eviction of encroachment with the following procedures:-

(i)General Procedure: In general, as per Section 7 of Tamil Nadu Land Encroachment Act, 1905, before taking proceedings, the Collector or Tahsildar shall cause to serve on the person a notice calling upon him to show cause why he should not be evicted. Further as per notice under Section 6 of the Tamil Nadu Land Encroachment Act, 1905, any person unauthorizedly occupying any land may be summarily evicted by the Collector, Tahsildar, Deputy Tahsildar (or any other officers authorized by the State Government in this regard) by serving such notices in the manner prescribed under Section 25 of Tamil Nadu Revenue Recovery Act, 1864.

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(ii)Original Petition to be filed at Taluk level: The petitioners seeking grievances for eviction of encroachment on Government land may file original petition before the respective Tahsildars.

On receipt of such petition, the Tahsildar may cause inspection at least at the level of Deputy Tahsildar, to decide whether the Government land is being encroached or not. If convinced of the fact that the Government land is being encroached, he shall serve a "Show Cause Notice" to the encroacher under Section 7 of Tamil Nadu Land Encroachment Act, 1905. Subsequently, other procedure as laid down under the Tamil Nadu Land Encroachment Act should be followed within a stipulated time.

A detailed written reply should be sent to the petitioner giving details of the action, if any, taken as per Tamil Nadu Land Encroachment Act, 1905 and the entire process shall be completed within 60 days from the date of receipt of petition.

(iii) Appellate Committee at Divisional level: This Committee shall admit only the Appeal Petitions on eviction of encroachment either on the ground of failure on the part of Tahsildar to give reply within 60 days or if the petitioner is not satisfied with the reply given or action taken by the Tahsildar.

The Appellate Committee shall be constituted with the following officials:

1) Revenue Divisional Officer;
2) Deputy Superintendent of Police; and
3) Deputy Inspector of Survey.

This Committee shall meet at least once in a month and decide each and every case individually after giving an opportunity for the petitioner to be heard. The Committee shall also take up personal inspection, if required, along with Tahsildar and Surveyors, after giving advance intimation to the petitioner.

A written communication should be sent to the petitioner conveying the decision of the above Appellate Committee within 30 days from the date of receipt of the Appeal Petition.

(iv) Review Committee at District Level:

Any petitioner, who does not receive reply from the above Appellate Committee within the stipulated time or is not satisfied with the decision of the Appellate Committee, may file Review Petition before the Review Committee.

The District Level Review Committee shall be constituted with the following officials:

1) District Revenue Officer;
2) Superintendent of Police; and
3) Assistant Director of Survey.

The District Level Review Committee shall meet at least once in a month and communicate its finding, within 30 days from the date of receipt of such petition, in a similar manner as described para 2 (iii).

(v) District Level Steering Committee:

The details and nature of complaints received by the 'Divisional Level Review Committee' and 'District Level Review Committee' along with the gist of decisions taken, shall be presented before the existing 'District level Steering Committee on Encroachment' headed by District

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Collector already constituted vide G.O.Ms.No.105 Revenue Department dated 07.03.2001.

4.The Additional Chief Secretary and Commissioner of Land Administration is requested to issue necessary instructions to all District Collectors to constitute the above mentioned Redressal Committees immediately for eviction of encroachment. As per the directions of Hon'ble High Court of Madras dated 08.10.2014 in reference third read above, all the District Collectors are instructed to give necessary publicity on constitution of Redressal Committees on eviction of encroachments utilizing the media, pamphlets and other means of communication to the common public from the District level office upto the village level. The Additional Chief Secretary and Commissioner of Land Administration is also requested to monitor the working of the Committees strictly and continuously."

5.In such view of the matter, the petitioner has to approach the competent authority, as per the said Government Order, for redressal of his grievance for eviction of encroachments. Accordingly, the petitioner is directed to file a petition before the competent authority. On receipt of such petition, the competent authority shall consider the same and pass appropriate orders, on merits, and in accordance with the said Government Order, within the time limit, as prescribed.

6.With the above direction, the writ petition stands disposed of. No costs. Consequently, M.P(MD)No.1 of 2015 is closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1.The District Collector,
Dindigul District, Dindigul.

2.The Revenue Divisional Officer,
Palani Taluk, Palani.

3.The Block Development Officer (Ke.Voo),
Thoppampatti Union, Thoppampatti, Palani Taluk,
Dindigul District.

4.The Tahsildar,
Palani Taluk, Dindigul District.

5.The President,
Thalaiyuthu Village, Palani Taluk, Dindigul District.

+1cc to Mr.S.Karthik, Advocate SR.No.63747

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SMS
NS/KBM/16.11.2015 : 4P/7C