

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.04.2016

Coram

The Hon'ble Mr. Justice T.S. SIVAGNANAM

Writ Petition No.13711 of 2016

K.Noorul Hammen

...Petitioner

Vs.

1. The State Government,
rep. by its Secretary to Government,
Land and Revenue Department,
Fort St. George, Chennai - 9.
2. The District Collector,
Nagapattinam District.
3. The Tahsildar,
Sirkali, Nagapattinam District.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus, directing the second and third respondents to dispose of the representation made by the petitioner on 16.03.2016.

For Petitioner : Mr.G.Ranganathan

For Respondents: Mr.R.Lakshminarayanan
Additional Government Pleader

ORDER

Heard Mr.G.Ranganathan, learned counsel appearing for the petitioner and Mr.R.Lakshminarayanan, learned Additional Government Pleader, accepting notice for respondents. With the consent of parties, the main Writ Petition is taken up for final disposal at the stage of admission.

2. The petitioner has filed this Writ Petition for issuance of Writ of Mandamus to direct the second and third respondents to dispose of his representation, dated 16.03.2016.

3. The petitioner is admittedly an encroacher of Government Poramboke Land, which is to be stated as "Thoppe Poramboke". The petitioner is said to have raised coconut trees

in the said land, and now, he claims that the Government cannot utilize the land for construction of a School building. Firstly, basis on which, the petitioner claims the land itself, is not sustainable, since the petitioner has no vested right over the property in question, since he is an encroacher of Government property. Secondly, it is not known as to why the Revenue Officials, especially, the Tahsildar/third respondent and the Village Administrative Officer of Melasalai Village have turned a blind eye to such encroachment, when the petitioner has claimed that he has planted more than 40 coconut saplings about 50 years back, and as on today, the coconut trees are in a fully grown state and it is now a coconut grove.

4. Considering the above facts, the District Collector should enquire into the matter, and ascertain as to how the petitioner was permitted to encroach into the Government land, and raised coconut trees in the land, and the other aspect is that, if the land is to be utilized for some other purpose, then the District Collector should also consider, without disturbing the coconut trees, if in existence, whether the land could be put to use for different purpose, if permissible under law. Therefore, only to the aforesaid extent, there will be a direction to the District Collector/Second respondent to take note of the representation of the petitioner, dated 16.03.2016, and pass appropriate orders on merits and in accordance with law.

5. It is made clear that this order should not be misunderstood or misinterpreted, as if, it is an order giving protection to the petitioner, but it is only to ensure that the Government land is protected, and while carrying out the aforesaid exercise, the District Collector shall ascertain, if there are standing trees and crops, the same shall also be protected and the land could be put to use for different purpose, without uprooting or cutting down the trees. The above direction be complied with by the second respondent/District Collector within a period of three months from the date of receipt of a copy of this order.

5. In the result, the Writ Petition is disposed of on the above terms. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

sd

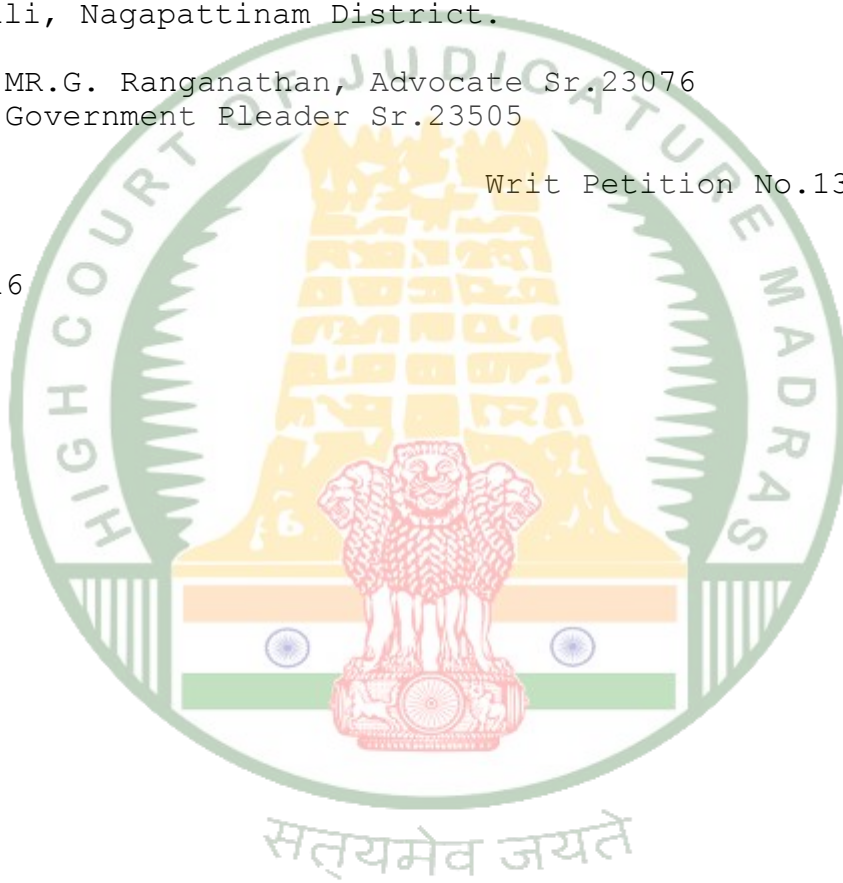
To

1. The Secretary to Government,
State Government,
Land and Revenue Department,
Fort St. George, Chennai - 9.
2. The District Collector,
Nagapattinam District.
3. The Tahsildar,
Sirkali, Nagapattinam District.

+ 1 cc to MR.G. Ranganathan, Advocate Sr.23076
+ 1 cc to Government Pleader Sr.23505

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KJI (CO)
Eu 25.04.16



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