

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.10.2016

CORAM :

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

AND

The Hon'ble MR.JUSTICE R.MAHADEVAN

W.P. No.4831 of 2013

G.Dharman .. Petitioner

-vs-

1.The District Collector,
Vellore District,
Vellore.

2.The Tahsildar,
Walajapet Taluk,
Walajapet, Vellore District.

3.Arumugam

4.Umapathy

5.Nagaraj

6.Krishnaveni

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus directing the 1st and 2nd respondent to consider the representation given by the petitioner on 07.1.2013 to remove the encroachments in Odai poramboke public pathway, cart way in Survey No.212, 213, 214, 213/1B3, 288, 215, 215/2 of Arapakam village, Walaja Taluk.

For Petitioner : Mr.D.Rajagopal

For Respondents : Mr.T.N.Rajagopalan
Spl. G.P. for R1 & R2

* * * * *

O R D E R

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

The prayer made in the writ petition is for direction against the first two respondents to consider the representation of the petitioner dated 07.01.2013 for removal of the encroachments stated to be in the path way, cart way in S.Nos.212, 213, 214, 213/1B3, 288, 215, 215/2 of Arapakam village, Walaja Taluk.

2. The learned Special Government Pleader states that in fact, another writ petition has been filed qua the same area, being W.P.No.21030 of 2016, in which a counter-affidavit has been filed confirming that on survey of the lands, it was ascertained that an extent of 1.92.5 Hectares of Government poramboke lands was encroached upon by planting banana trees. The non-action on the part of the authorities is stated to be on account of filing of the civil suit, O.S.No.66 of 2011 before the District Munsif-cum-Judicial Magistrate Court, Arcot for permanent injunction. No interim orders have however been granted.

3. On hearing the learned counsel for parties, it is directed that the representation of the petitioner dated 07.01.2013 be disposed of by respondent Nos.1 and 2 in accordance with law, after notice to all concerned within a maximum period of three months of the receipt of the copy of this order.

4. We make it clear that the option will be with the respondent authorities, in case they want to issue a "B" Memo; otherwise, an endeavour should be made to preserve the trees even if the Government re-possesses the lands. We clarify that if there is any interim injunction of Civil Court, that would have to be contested by the concerned authorities, but in the absence of injunction, there will be no impediment to carry out the exercise.

5. The writ petition, accordingly, stands disposed of. No costs. List W.P.No.21030 of 2016 before this Bench on 20.10.2016.

-sd/-

Assistant Registrar

/ TRUE COPY /

Sub-Assistant Registrar

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To

1.The District Collector,
Vellore District, Vellore.

2.The Tahsildar,
Walajapet Taluk,
Walajapet, Vellore District.

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+1 cc to MR.D.RAJAGOPAL Advocate SR.NO. 59377
+1 cc to the Government Pleader SR.NO. 59596

copy to

The section officer
writ section, high court, madras

W.P.No.4831 of 2013

sk[co]
RD 04/11/2016



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