

WP No.40810 of 2015

The Hon`ble The. CHIEF JUSTICE

P.Rajendran,
S/o.Palayam, Eliyambedu Village Colony,
Ponneri Post and Taluk, Tiruvallur
District-601 204

Vs

The District Collector,
Tiruvallur District, Tiruvallur - 602
001 and 6 others.

We accept the apology tendered by the first respondent.

2.Affidavit has been filed by the first respondent / Collector in respect of land in Survey Nos.143, 144, 145 and 146 situated at No.59, Periyakavanam Village, Ponneri Group-I Revenue Village, Ponneri Taluk, Tiruvallur District.

3.It has been clarified that Survey No.146 is actually a land given by the Tamil Nadu Refugee and Rehabilitation Department to the Burma refugees for constructing houses in 1971. It, however, appears that only a few of the allottees constructed the house. There are stated to be proceedings pending in respect of this Survey number arising from some disputes where there are multifarious legal proceedings which certainly cannot be determined in the present public interest litigation and parties will have to work out their legal remedies.

3.In so far as the remaining land is concerned, it is stated that all encroachments had been cleared and even the encroachment on some path area which was not originally allotted has been cleared. Photographs have been shown to us and returned.

4.The Collector must now ensure that there is no re-encroachment on the earlier encroached area.

5.This is not the only matter where the issue of unauthorised construction

has been brought to our notice and action taken after the Court has called upon the authorities to act in accordance with law. It is also somewhat true that the persons alleging unauthorised encroachments are often inimically disposed towards the parties against whom they make the allegations. The fact, however, remains that there are encroachments and these encroachments are touched only when directions are issued by the Court. This is the matter of concern to us.

6.The very basis of the local administration is to see that various aspects in respect of such administration are dealt with and naturally, the Collector is the pivot for such administrative decisions. It is the responsibility of the Collectors of the area to ensure that public land is protected and not encroached upon. It does not require orders from the Court. We would like to see actions at the Collector level itself without intervention of the Court to protect public land. We also believe that there has to be some deterrent to encroachments, as often neighbours are happy with the encroachments so long as all of them encroached equally. A signal must be sent that the right over the land is restricted to what they own and not beyond it.

7.We would like the Chief Secretary to look into this aspect and entrust it to the officers concerned for a more effective monitoring mechanism at the District level to ensure protection of land and work out some methodologies for a deterrence against encroachments. Otherwise, we are finding that first encroachment occurs (not prevented initially) and then it becomes another task and a legal quagmire to go through various spheres of proceedings to ensure eviction.

8.We hope and trust, this matter would be dealt with in all seriousness as it involves both issues - protection of Government land and the Courts being unnecessarily burdened with litigations in this behalf where really only administrative action is required.

9.No further orders are required.

[CJ]

13/07/2016

SRA