

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.01.2016

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE MR. JUSTICE K.K. SASIDHARAN

W.P. No.2619 of 2016

N. Elaiyaraja

Petitioner

Vs.

1 The Government of Tamil Nadu
represented by its Secretary to Government
Rural Development Department
Fort St. George
Chennai 600 009

2 The District Collector
Villupuram District

3 The Block Development Officer
Kallakurichi Post and Taluk
Villupuram District

4 The President
Siruvangur Village and Post
Kallakurichi Taluk
Villupuram District

5 Krishnan

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondents 1 to 4 to prevent the unauthorised construction activity being carried out in the property in Grama Natham Survey No.93/3 (Old one) New Survey Nos.351/1 (Part) and 351/2 (Part) measuring about 5 cents of Siruvangur Village, Kallakurichi Taluk, Villupuram District by the fifth respondent herein without obtaining planning permission, either by issuing stop work notice or any other appropriate steps under the provisions of the Tamil Nadu Panchayats Building Rules, 1997 and G.O. Ms.No.255, Rural Development (C2) Department dated 18.08.1997.

For petitioner Mr. P. Rajavel
For RR 1-4 Mrs. A. Srijoyanthi
Special Government Pleader
R5 Notice Dispense with
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ORDER

(delivered by SATISH K. AGNIHOTRI, J.)

Mrs. A. Srijoyanthi, learned Special Government Pleader, accepts notice for the official respondents. Notice to the fifth respondent is dispensed with at this stage, inasmuch as no adverse order is passed against him in this writ petition. Thus, with the consent of the learned counsel for the petitioner and the learned Special Government Pleader appearing for the official respondents, this writ petition is taken up for final disposal, at the admission stage itself.

2 The petitioner's case is that despite his representation dated 09 November 2015 addressed to the second respondent, viz., the District Collector, Villupuram, seeking to stop the alleged unauthorised and illegal construction made by the fifth respondent in the Grama Natham land in question, no step has been taken thereon. Hence, the instant writ petition seeking a writ of mandamus directing the official respondents to prevent the alleged unauthorised construction being carried out by the fifth respondent, either by issuing stop work notice or taking any other appropriate steps under the provisions of the Tamil Nadu Panchayat Building Rules, 1997 and G.O. Ms.No.255, Rural Development (C2) Department dated 18 August 1997.

3 According to the learned counsel for the petitioner, the fifth respondent filed a suit in O.S. No.338 of 2014 on the file of the Principal District Munsif, Kallakurichi, seeking permanent injunction against the petitioner's uncle, who happens to be the adjacent land owner of the fifth respondent. In fact, the fifth respondent got an order of interim injunction from the Civil Court and taking undue advantage of the said order of interim injunction, the fifth respondent is attempting to create further encroachment on the Grama Natham land. Hence, the petitioner, on behalf of his uncle, addressed a representation on 28 September 2015 to the second respondent to stop the encroachment allegedly made by the fifth respondent. Pursuant thereto, the second respondent directed the Revenue Tahsildar, Kallakurichi on 05 October 2015, to take action and report back. Notwithstanding such a clear direction from the second respondent, no action was taken by the Revenue Tahsildar. Hence, feeling aggrieved by the inaction on the part of the Revenue Tahsildar, the petitioner addressed one more

representation dated 09 November 2015 to the second respondent with copies marked to other concerned authorities. The said representation also has gone unattended without any action.

4 In view of the above factual matrix, without going into the merits of the case, we direct the second respondent to look into the petitioner's grievance and ensure that proper inspection is done and if there is any unauthorised construction going on unabated, the same is removed in accordance with law, of course, after giving an opportunity of hearing to the alleged encroacher, viz., the fifth respondent. The entire exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order.

The writ petition stands disposed of with the above directions. Costs made easy.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

cad

To

- 1 The Secretary to Government
Rural Development Department
Government of Tamil Nadu
Fort St. George, Chennai 600 009
- 2 The District Collector, Villupuram District
- 3 The Block Development Officer
Kallakurichi Post and Taluk, Villupuram District
- 4 The President
Siruvangur Village and Post
Kallakurichi Taluk
Villupuram Post

+1 cc to Mr.P.Rajavel Advocate sr.4718

+1 cc to Government Pleader sr.5118

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aa05/02/2016