

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.09.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH  
and  
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

Writ Petition No.33789 of 2016  
and  
WMP.No.29152 of 2016

Maradhavanan

...Petitioner

Vs.

1. The District Collector,  
Villupuram.
  2. The Tahsildar,  
Thirukoilur Taluk,  
Villupuram District.
  3. The Chairman,  
Tamil Nadu Water Supply and Drainage Board,  
No.31, Kamaraj Salai,  
Chepauk, Chennai - 600 005.
  4. The Assistant Executive Engineer,  
Tamil Nadu Water Supply and Drainage Board,  
Thiruvannamalai District.
- ...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the fourth respondent in Na.Ka.No.Veta/Neethi/V.NI/PO/ maintenance/T.Malai/2016 dated 09.09.2016 and quash the same and consequently direct the second respondent to act accordance with law G.O.Ms.No.540 Revenue (LD 6(2) Department dated 04.12.2014.

For Petitioner : Mr.M.Pari  
For Respondents : Mr.K.Dhananjayan, SGP

ORDER

(Order of the Court was made by S.VAIDYANATHAN,J.)

With the consent of both the parties, the writ petition is taken up for final disposal at the stage of admission itself.

2. The petitioner has come forward with this Writ Petition to quash the communication dated 09.09.2016 issued by the fourth respondent and consequently, direct the second respondent to act in accordance with G.O.(Ms).No.540 Revenue [LD 6(2)] Department dated 04.12.2014.

3. The case of the petitioner is that he purchased a land measuring to an extent of 0.11 cents in Survey No.143/5-C at Devanoor Village by a registered document bearing No.110/1975 dated 12.08.1975. Thereafter, he has been in possession and enjoyment of the same by constructing a house. He is also enjoying the adjacent village poramboke land in survey no.143/13 to an extent of 2 to 3 cents by paying B-memo charges to the authority concerned. While so, due to personal enmity, one T.Kuppusamy, who was the neighbour of the petitioner, filed a writ petition in WP.No.22183/2013 for a Mandamus, directing the official respondents to take necessary action against the petitioner herein and to remove the illegal encroachment made in Survey No.142/3 in Devanoor Road, Thirukovilur Taluk, Villupuram District. By an order dated 04.07.2016, the said writ petition was disposed of by the First Bench of this Court, with a direction to the Tahsildar to cause an inspection of the site and to take action in accordance with law to clear the encroachment, if any, after notice to all concerned, within a period of three months. Pursuant to the same, the fourth respondent has issued a communication dated 09.09.2016, directing the petitioner to vacate the premises in Survey Nos.142/2 and 143/3, failing which, the Tahsildar would take action with regard to removal of encroachment. Aggrieved over the same, the petitioner is before this Court with the present writ petition for the above stated relief.

4. Heard Mr.M.Pari, learned counsel for the petitioner and Mr.K.Dhananjayan, learned Special Government Pleader, who accepts notice on behalf of the respondents.

5. Admittedly, the petitioner has encroached the land in Survey No.143/13 at Devanoor Village, as per Para No.2 of the affidavit filed in support of this writ petition. In the order dated 04.07.2016 in W.P.No.22183 of 2013, the First Bench of this Court has directed the Tahsildar to inspect the site in Survey No.142/3 and take action in accordance with law, with regard to removal of encroachment, if any, after notice to all the parties.

6. A reading of the communication issued by the fourth respondent, dated 09.09.2016, which is impugned in this writ petition, would go to show that it is only a notice calling upon the petitioner to vacate the land, failing which, the Tahsildar would take action for removal of encroachment, whereas, the

petitioner has filed this writ petition, on the wrong premises that the fourth respondent has directed him to vacate the land. Further, there is no whisper about the site inspection made by the authority concerned in strict compliance with the direction of the First Bench as referred to above. At this juncture, the learned counsel for the petitioner has drawn the attention of this Court to G.O.(Ms).No.540 Revenue [LD6(2)] Department dated 04.12.2014, wherein, the Government has framed the procedures for removal of encroachment in the Government lands.

7. In such view of the matter, the impugned communication dated 09.09.2016 issued by the fourth respondent shall be treated as show cause notice to the petitioner, calling upon him to submit his reply with regard to the encroachment made in the lands in Survey Nos.142/2 and 143/3. Accordingly, we direct the petitioner to submit his reply along with the necessary documents in support of his claim, to the fourth respondent, within a period of one week from the date of receipt of a copy of this order. On receipt of the same, the fourth respondent shall consider the same and pass necessary orders, in accordance with law, after affording an opportunity of personal hearing to the petitioner and also in the light of the order dated 04.07.2016 in W.P.No.22183 of 2013 passed by the First Bench of this Court, within a period of one month thereafter. The respondents are expected to follow the procedures laid down in G.O.(Ms).No.540 Revenue [LD6(2)] Department dated 04.12.2014, with regard to removal of encroachment.

8. Accordingly, the Writ Petition is disposed of. It is needless to mention that it is open to the petitioner to remove the encroachments on his own. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

To

1. The District Collector, Villupuram.
2. The Tahsildar, Thirukoilur Taluk,  
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3. The Chairman,  
Tamil Nadu Water Supply and Drainage Board,  
No.31, Kamaraj Salai,  
Chepauk, Chennai - 600 005.

4. The Assistant Executive Engineer,  
Tamil Nadu Water Supply and Drainage Board,  
Thiruvannamalai District.

+1 cc to Mr.M.Pari,advocate,sr.54762

+1 cc to Government Pleader,sr.55059.

Svi(co)  
krd 24/10

W.P.No.33789 of 2016



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