



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.09.2016

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU
AND
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P.[MD].No.2046 of 2015

S.Loganathan : Petitioner

Vs.

- 1.The Government of India,
rep. by its Chief General Engineer,
Ministry of Railway, Southern Railway,
New Delhi.
- 2.The Sub Divisional Engineer,
Madurai Region, Southern Railway,
Madurai - 625 001.
- 3.The Sub Divisional Railway Manager,
Southern Railway, Madurai - 625 001.
- 4.The District Collector,
Virudhunagar District, Virudhunagar.
- 5.The President,
Vachakkarapatti Village Panchayat,
Vachakkarapatti, Virudhunagar Taluk,
Virudhunagar District.

: Respondents

(R4 and R5 are impleaded, vide Court order dated 05.11.2015 in M.P.(MD).No.1 of 2015.

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents herein to take appropriate steps to remove the encroachments made in S.No.158 of Vachakarapatti Village, Virudhunagar District, within a stipulated time.

For Petitioner

: Ms.Lakshmi Gopinathan
for M/s.Polex Legal Solutions

<https://hcservices.ecourts.gov.in/hcservices/> For Respondents

: Mr.S.Manohar



For 4th respondent : Mr.T.R.Janarthanam,
Addl. Government Pleader

For 5th respondent : Mr.S.Anand Chandrasekar
for M/s.Sarvabhauman Associates

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O R D E R

[Order of the Court was made by S.NAGAMUTHU, J.]

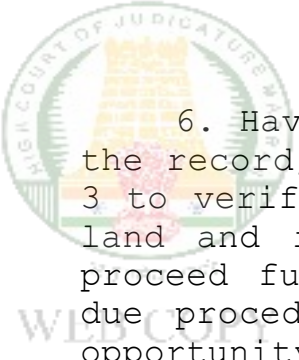
The petitioner has come up with this Public Interest Litigation seeking a direction to the respondents to take appropriate steps to remove the encroachments made in S.No.158 of Vachakarapatti Village, Virudhunagar District, on the ground that the said land belong to Southern Railway.

2.We have heard the learned counsel for the petitioner and the learned counsel appearing for the respondents 1 to 3, the learned Additional Government Pleader appearing for the 4th respondent and the learned counsel appearing for the 5th respondent. We have also perused the records carefully.

3.The learned counsel appearing for the Southern Railway submitted that it is true that there is encroachment made by the fifth respondent Panchayat in an area of 701.30 square meters (7546 sq. ft.) on the Railway land comprised in Survey No.158. He has brought to our notice that already the Assistant Divisional Engineer, Southern Division, Madurai, by letter dated 02.02.2010, has requested the Panchayat President viz., the fifth respondent to remove the encroachments and hand over the vacant possession. In this regard, further steps have also been taken by the Railways by issuing Form A and Form B. The learned counsel would further submit that the District Collector has also been informed about the encroachments and requested to take steps to remove the encroachments by letter dated 17.08.2010. Despite these efforts, the encroachments have not been so far removed. But, the respondents 1 to 3 are actively taking steps to remove the same.

4.The learned counsel for the petitioner would submit that seeking permanent injunction in respect of the said property, the fifth respondent filed a civil case in C.M.A.No.10 of 2010 before the Additional District Judge (Fast Track Court), Virudhunagar. That was dismissed by the said Court, by order dated 29.12.2010. Despite the same, according to the petitioner, the fifth respondent has not removed the encroachment.

5. The learned counsel for the fifth respondent would submit that he has no argument to advance.



6. Having considered the rival submissions and also perusal of the record, we are of the view that it is for the respondents 1 to 3 to verify whether actually there is any encroachment on Railway land and if there is any such encroachment, it is for them to proceed further and remove the encroachment, after following the due procedure established by law and after affording sufficient opportunity to the fifth respondent. The respondents may take steps to complete the above said exercise within a period of six months.

7. With the above direction, the writ petition is allowed. No costs.

Sd/-
Assistant Registrar(Writs)

/True copy/

Sub Assistant Registrar

To

- 1.The Chief General Engineer,
Ministry of Railway, Southern Railway,
New Delhi.
- 2.The Sub Divisional Engineer,
Madurai Region, Southern Railway,
Madurai - 625 001.
- 3.The Sub Divisional Railway Manager,
Southern Railway, Madurai - 625 001.
- 4.The District Collector,
Virudhunagar District, Virudhunagar.

+1cc to special Government Pleader SR.No.53185
+1cc to Mr.Sarvabhauman, Advocate SR.No.53081
+1cc to M/s.Polex legal Solution, Sr.No.53410
+1cc to MR.S.Manohar, Advocate SR.No.53829

gcg
sm:PV:28/09/2016:3P/9C

Order made in
W.P. [MD].No.2046 of 2015
16.09.2016