



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.04.2016

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P. (MD) No.7552 of 2016

K.P.K.Veeraprabakaran

.. Petitioner

Vs.

1. The District Collector,
Collectorate Office, Madurai.
2. The Tahsildar,
Peraiyur Taluk Office,
Peraiyur, Madurai District.
3. President,
Perungamanallur Village Panchayat,
Peraiyur Taluk, Madurai District.

4. Danapalan

.. Respondents

Prayer: The Petition is filed under Article 226 of the Constitution of India, to issue a To issue a Writ of Mandamus directing the respondents 2 and 3 respondents to remove the toilet and septic tank encroached by the Fourth respondent in the Government Public Street in S.No.145, North Street, P.kanniyampatti, Perungamanallur Village, Peraiyur Taluk, Madurai District within a stipulated time as fixed by this Court.

For Petitioner : Mr.M.S.Suresh Kumar

For R1 to R3 : Mr.A.K.Baskarapandian
Special Government Pleader

O R D E R

(Order of this Court was made by S.MANIKUMAR, J.)

A practicing advocate and claiming himself to be a pro bono litigant, has sought for a writ of Mandamus directing the respondents 2 and 3 respondents to remove the toilet and septic tank encroached by the 4th respondent in the Government Public Street in S.No.145, North Street, P.kanniyampatti, Perungamanallur



Village, Peraiyur Taluk, Madurai District within a stipulated time as fixed by this Court.

2.As no adverse order is passed as against the fourth respondent, notice is waived.

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3.Sum and substance of the supporting affidavit is that the fourth respondent, residing in natham Survey No.145/31, has encroached upon Government Street in Survey No.145 and completed construction of toilet with septic tank and consequently, width of the Government street runs through S.No.145 is reduced. Thus, for the above said reasons, Mandamus is sought for.

4.According to the petitioner, though representations have been made to respondent Nos.1 to 3, no action is taken and thus, left with no other alternative except to approach this Court under Article 226 of the Constitution of India, he has filed the present writ petition for the relief stated supra.

5.Pursuant to the directions of this Court made in W.P.(MD) No.26722 of 2013, dated 08.10.2014, Government have issued G.O.Ms.No.540, Revenue [LD6(2)] Department, dated 04.12.2014, forming various committees to dispose of the grievances relating to the eviction of encroachment in Government land. Government have set out procedure in dealing with the grievance.

6.As per paragraph No.2(ii) to 2(v) of the above said Government Order, original petition has to be filed at Taluk level; Appellate Committee at the Divisional level and there is a provision for Review Committee at District Level and District Level Steering Committees and the same read as follows:-

"2(ii).Original Petition to be filed at Taluk Level:

*The petitioners seeking grievances for eviction of encroachment on Government land may file original petition before the respective Tahsildars.

*On receipt of such petition, the Tahsildar may cause inspection at least at the level of Deputy Tahsildar, to decide whether the Government land is being encroached or not. If convinced of the fact that the Government land is being encroached, he shall serve a "Show Cause Notice" to the encroacher under Section 7 of Tamil Nadu Land Encroachment Act, 1905. Subsequently, other procedure as laid down under the Tamil Nadu Land Encroachment Act should be followed within a stipulated time.

*A detailed written reply should be sent to the petitioner giving details of the action, if any, taken under the Tamil Nadu Land Encroachment Act, 1905 and the entire process shall be completed within 60 days from the date of receipt of petition.



(iii) Appellate Committee at Divisional Level:

*This Committee shall admit only the Appeal Petitions on eviction of encroachment either on the ground of failure on the part of Tahsildar to give reply within 60 days or if the petitioner is not satisfied with the reply given or action taken by the Tahsildar.

*The Appellate Committee shall be constituted with the following officials:

- 1) Revenue Divisional Officer;
- 2) Deputy Superintendent of Police; and
- 3) Deputy Inspector of Survey.

*This Committee shall meet atleast once in a month and decide each and every case individually after giving an opportunity for the petitioner to be heard. The Committee shall also take up personal inspection, if required, along with Tahsildar and Surveyors, after giving advance Intimation to the petitioner.

*A written communication should be sent to the petitioner conveying the decision of the above Appellate Committee within 30 days from the date of receipt of the Appeal Petition.

(iv) Review Committee at District Level:

*Any petitioner, who does not receive reply from the above Appellate Committee within the stipulated time or is not satisfied with the decision of the Appellate Committee, may file Review Petition before the Review Committee.

*The District Level Review Committee shall be constituted with the following officials:

- 1) District Revenue Officer;
- 2) Superintendent of Police; and
- 3) Assistant Director of Survey.

*The District Level Review Committee shall meet atleast once in a month and communicate its finding, within 30 days from the date of receipt of such petition, in a similar manner as described para 2(iii).

(v) District Level Steering Committee:

*The details and nature of complaints received by the 'Divisional Level Review Committee' and 'District Level Review Committee' along with the gist of decisions taken, shall be presented before the existing 'District Level Steering Committee on Encroachment' headed by District Collector already constituted vide G.O.Ms.No.105, Revenue Department, dated 07.02.2001."

7. Referring to the prayer sought for, the attention of this Court was invited to the representation, dated 07.04.2016, stated to be made by the petitioner to Tahsildar, Peraiyur Taluk, Peraiyur and the learned Government Pleader further submitted that the time granted therefor in G.O.Ms.No.540, Revenue [LD6(2)]



Department, dated 04.12.2014, has not expired.

8.Mr.M.S.Suresh Kumar, learned counsel for the petitioner submitted that it would suffice that if the Tahsildar, Peraiyur Taluk, Peraiyur, considers his representation, dated 07.04.2016, and pass orders in terms of G.O.Ms.No.540, Revenue [LD6(2)] Department, dated 04.12.2014.

9.Placing on record of the above submission, we are not going into the merits of the allegations levelled against the respondent No.4. There shall be a direction to the Tahsildar, Peraiyur Taluk, Peraiyur to consider the representation of the petitioner, dated 07.04.2016 and pass order in accordance with law and in accordance with G.O.Ms.No.540, Revenue [LD6(2)] Department, dated 04.12.2014. The authority is directed to provide a reasonable opportunity to the respondent No.4 against whom allegation is levelled.

10.The writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Collectorate Office, Madurai.
2. The Tahsildar,
Peraiyur Taluk Office,
Peraiyur, Madurai District.
3. President,
Perungamanallur Village Panchayat,
Peraiyur Taluk, Madurai District.

+1cc to the Special Government Pleader, Sr.No.22493

+1cc to Mr.M.S.Suresh Kumar, Advocate, Sr.No.21843

+1cc to Mr.J.Gunaseelan Muthiah, Advocate, Sr.No.22391

rj2

JM/JGB-DP/05.05.2016/4P-7C