

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.04.2017

CORAM :

The Hon'ble MS.INDIRA BANERJEE, CHIEF JUSTICE
AND
The Hon'ble MR.JUSTICE M.SUNDAR

W.P.No.8153 of 2017
and
W.M.P.No.8935 of 2017

S.Babu

... Petitioner

-Vs-

1. The Secretary to Government,
Revenue Department,
Secretariat, Chennai - 600 009.
2. The Secretary to Government,
Public Works Department,
Secretariat, Chennai - 600 009.
3. Commissioner of Municipal Administration,
Chepauk,
Chennai - 600 005.
4. District Collector,
Tiruvallur District,
Tiruvallur.
5. District Revenue Officer,
Tiruvallur.
6. Revenue Divisional Officer,
Poonamallee,
Tiruvallur District.
7. Tahsildar,
Poonamallee,
Tiruvallur District.
8. Poonamallee Municipality,
rep. by its Commissioner,
Poonamallee,
Tiruvallur District.

... Respondents

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Writ Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Declaration declaring that the entire proceedings initiated by the 8th respondent against the petitioner in respect of the property in Survey No.468 (Wrongly referred to as Survey No.246 246/1 by the 8th respondent) in Kumananchavadi Village in Poonamallee Taluk, Tiruvallur District under District Municipalities Act and Subsequent process by the 7th respondent are illegal null and void consequently direct the respondent to regularize the petitioners occupation in the said property by granting patta as per relevant Government orders without interfering with his peaceful possession and enjoyment.

For Petitioner : Mr.P.Wilson
Senior Counsel
for M/s.R.Neelakandan

For Respondents : Mr.M.K.Subramanian
Government Pleader
for respondent Nos.1 to 7
Mr.Sivakumar for R8

ORDER

(Order of the Court was made by M.Sundar, J.)

The writ petitioner has come to this Court, assailing proceedings to remove the encroachments from a water body which has admittedly been classified as a water body viz., Kulam poramboke (Tank poramboke).

2. Heard Mr.P.Wilson, learned Senior Counsel for the counsel on record for the petitioner Mr.R.Neelakandan.

3. Mr.Sivakumar, learned standing counsel accepts notice on behalf of respondent No.8.Mr.M.K.Subramanian, learned Government Pleader accepts notice for the remaining respondents viz., respondent Nos.1 to 7.

4. It is the positive assertion of the writ petitioner that they are in occupation of the land comprised in S.No.468 in Kumananchavadi Village, Poonamallee Taluk, Tiruvallur District.

5. Mr.Sivakumar, learned standing counsel, who has accepted notice on behalf of respondent No.8 would submit that they are proceeding to remove the encroachments in a water body comprised in S.No.246 and its sub-divisions therein.

6. Learned Senior Counsel for petitioner would also draw our attention to an earlier order of a Division Bench of this Court made in W.P.No.41414 of 2016, dated 25.11.2016, wherein and whereby, a Division Bench of this Court has directed the Commissioner, Poonamallee Municipality (respondent No.8 before us now in this writ petition) to cause an inspection of the site to be made within fifteen days and if encroachments are found, to proceed in accordance with law, after notice to all concerned. There is also a direction to conclude the proceedings within a maximum period of two months. There is no dispute that this direction pertains to S.No.246.

7. For the sake, convenience and clarity, we deem it appropriate to extract paragraph 5 of the above said order of the earlier Division Bench of this Court made in the aforesaid writ petition, which reads as under:

"5. We consider it appropriate to direct the second respondent to cause an inspection of the site to be made within fifteen (15) days and if encroachments are found, to proceed in accordance with law, after notice to all concerned and conclude the proceedings within a maximum period of two (2) months thereafter."

8. Mr. Sivakumar, learned standing counsel appearing for respondent No.8 before us would assert that they are going to start the proceedings for removal of the encroachments in accordance with law and pursuant to the positive direction issued by this Court.

9. It is also not in dispute between the learned counsel on either side that the land comprised in S.No.246 of Kattupakkam Village, Poonamallee Taluk, Tiruvallur District and its subdivisions therein have been classified as a water body (tank poramboke).

10. The learned standing counsel appearing for respondent No.8 also takes us through the Proceedings of the Commissioner, Poonamallee Municipality in Na.Ka.No.1431/2016/F1, dated 27.2.2017 and would submit that they are proceeding in accordance with the applicable Statute, he would also assure that they are proceeding in accordance with the directions of this Court in T.S.Senthilkumar v. Government of Tamil Nadu, rep. by its Secretary, Public Works Department, Chennai-9 and others, reported in (2010) 3 MLJ 771. The said submission of the learned standing counsel for respondent No.8 is recorded.

11. It is the admitted case of the writ petitioner that they are only in occupation of S.No.468 and not in occupation of S.No.246 situated at Kattupakkam Village, Poonamallee Taluk, Tiruvallur District.

12. Respondent No.8 shall proceed with the removal of encroachments in S.No.246 and sub-divisions therein situated at Kattupakkam Village, Poonamallee Taluk, Tiruvallur District as set out supra.

13. Therefore, no further directions are required.

14. With the above said observation and direction, the writ petition is disposed of, leaving the parties to bear their own costs. Consequently, W.M.P.No.8935 of 2017 is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
Revenue Department,
Secretariat, Chennai - 600 009.
2. The Secretary to Government,
Public Works Department,
Secretariat, Chennai - 600 009.
3. The Commissioner of Municipal Administration,
Chepauk,
Chennai - 600 005.
4. The District Collector,
Tiruvallur District,
Tiruvallur.
5. The District Revenue Officer,
Tiruvallur.
6. The Revenue Divisional Officer,
Poonamallee,
Tiruvallur District.

7. The Tahsildar,
Poonamallee,
Tiruvallur District.

8. The Commissioner,
Poonamallee Municipality,
Poonamallee,
Tiruvallur District.

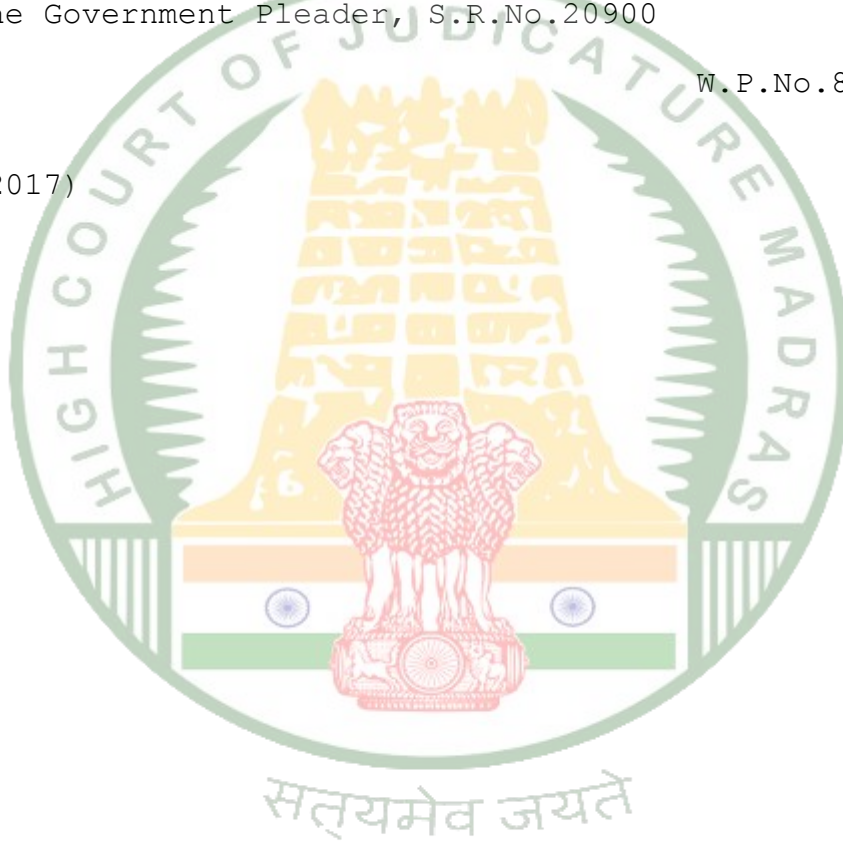
+1cc to Mr.Sivakumar, Advocate, S.R.No.20804

+2cc's to Mr.R.Neelakandan, Advocate, S.R.No.21130

+1cc to the Government Pleader, S.R.No.20900

W.P.No.8153 of 2017

SJ(CO)
CA(17/04/2017)



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