

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.06.2017

CORAM

THE HONOURABLE MR. JUSTICE S.MANIKUMAR

AND

THE HONOURABLE MR. JUSTICE M.GOVINDARAJ

CONT.P.NO.1393 OF 2016

1.M.Baskar
2.B.Kuzhalmathi ... Petitioners

vs.

1.Sundaravalli
The District Collector
Thiruvallur District.
2.Muthu
The District Revenue Officer
Thiruvallur District, Thiruvallur.
3.Jayachandran
The Revenue Divisional Officer
Thiruvallur District.
4.M.Padmaja
The Tahsildar
Poonamallee Taluk, Poonamallee.
5.P.V.Surendrasha
The Commissioner
Poonamallee Municipallity
Poonamallee, Chennai - 56. .. Respondents

PRAYER: Contempt Petition filed under Section 11 of Contempt of Courts Act to punish the respondents herein for disobedience of the order dated 15.09.2015 passed by this Court in W.P.No.12873 of 2015.

For Petitioner : Mr.D.Ravi
For Respondents : Mr.K.V.Dhanapalan
Special Government Pleader

O R D E R**(ORDER OF THE COURT WAS MADE BY S.MANIKUMAR, J.)**

On 24th April 2017, we passed the following order:

"Contempt Petition No.1393 of 2016 has been directed to be listed before this Bench.

2. Petitioners have filed W.P.No.12873/2015, for a mandamus, directing the respondents 1 to 5, to remove the encroachment made by the respondents 6 to 8 therein, on road Poramboke in S.No.638 part, about 2 cents, in Poramboke Municipal Limits, providing Road/path way to the petitioners from their respective house in S.No.635/3 in Poonamallee Municipality.

3. Responding the prayer sought for, the Tahsildar, Poonamallee Taluk has filed a counter affidavit, stating that notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 has been served on the alleged encroachers, including the respondents 6 to 8 therein.

4. In the writ petition, the respondents 6 to 8 therein were not served.

5. A Hon'ble Division Bench of this Court, in W.P.No.12873/2015, at para 4, ordered as hereunder:-

" At this stage, we are not inclined to keep the matter pending, particularly, when the petitioner is unable to supply the latest and correct addresses of the alleged encroachers, viz., respondents 6 to 8. However, we direct the official respondents 1 to 5 to take consequential action, pursuant to the afore stated notice issued under Section 7 of the Act, on merits and in accordance with law. Such an exercise shall be completed at the earliest."

6. Alleging that the official respondents herein have not complied with the orders, made in W.P.No.12873/2015, instant contempt petition has been filed.

7. From the materials available on record, we find that pursuant to the orders made in W.P.No.12873/2015, dated 15/9/2015, the Tahsildar, Poonamallee, has conducted an enquiry and after considering the explanation, Village and Taluk records, *prima facie* found that there was encroachment, on the pathway, in Government poramboke land, in Survey No.638, Poonamallee Taluk and Municipality.

8. On this day, when the matter came up for hearing, on the basis of proceedings, in R.C.No.28834/2015/No.1, dated 6/8/2016, of the District Collector, Thiruvallur,

Mr.K.V.Dhanapalan, learned Special Government Pleader submitted that after going through the records, the District Collector, Thiruvallur District has also sustained the order, issued under Section 6 of the Tamil Nadu Encroachment Act, 1905, dated 18/7/2016, passed by the Tahsildar, Thiruvallur District. He further submitted that the District Collector, Thiruvallur, vide proceedings, dated 6/8/2016, has directed the Tahsildar, Poonamallee, the Commissioner, Poonamallee Municipality, to remove the encroachments, within a week.

9. It is also brought to the notice this Court that the order, dated 6/8/2016, of the District Collector, Thiruvallur, referred to above, has been challenged by three persons, namely D.Ranjan, D.Ravichandran & D.Nataraj @ Michael. On the submission that a revision petition would be maintainable, under Section 10 - A of the Tamil Nadu Encroachment Act 1905, writ petition has been disposed off.

10. Further, on the basis of proceedings, in R.C.No.28834/2015/No.1, dated 17/11/2015, Mr.D.Ravi, learned counsel for the petitioners submitted that the Commissioner of Poonamallee Municipality has been requested, to make a joint inspection, on 31/3/2017.

11. Mr.K.V.Dhanapalan, learned Special Government Pleader submitted that action has been taken to remove the encroachment. There is no intention to disobey the orders of this court.

12. **Post on 1/6/2017 for filing compliance report. "**

2. On this day, when the matter came up for further hearing, on instructions from the Tahsildar, Poonamallee and inviting attention of this Court to the proceedings in R.C.A2/17820/2013 dated 30.05.2017, addressed to the Government Pleader, High Court, Mr.K.V.Dhanapalan, learned Special Government Pleader submitted that in obedience to the order of this Court in W.P.no.12873 of 2015 dated 15.09.2015, in the presence of Police, Municipality and Revenue Officials after following necessary procedures under Land Encroachment Act, the following encroachments have been evicted on 19.05.2017:-

Survey No.	Classification	Total extent	Area under encroachment	Nature of Encroachment	Name of the Encroacher
638	Vazhi	0.03.0	7.8 Sq. Meter	Compound Wall	1) Parthiban
			7.2 Sq. Meter	Front Portion of House	* 2) Sarala
109/2	Battai	150 Sq.M	10 Sq. Meter	Brick Well	1) Ranjan
			20 Sq. Meter	Hut	* 2) Ravichandran

***Amended as per order dated 10/07/2017 in**

3. Mr.D.Ravi, learned counsel for the contempt petitioner fairly submitted that the orders of this Court have been complied with.

4. In the light of the above, the Contempt Petition is dismissed.

SD/-
JOINT REGISTRAR(OS) I/C
TK
//Certified to be true copy//

Dated at Madras this the day of 2017.
COURT OFFICER(O.S.)

from 25th day of September 2008 the Registry is issuing Certified copies of the Orders/Judgments/Decrees in this format.
SS/CO/19/06/2017

To
1.Sundaravalli
The District Collector, Thiruvallur District.

2.Muthu
The District Revenue Officer
Thiruvallur District, Thiruvallur.

3.Jayachandran
The Revenue Divisional Officer, Thiruvallur District.

4.M.Padmaja
The Tahsildar
Poonamallee Taluk, Poonamallee.

5.P.V.Surendrasha
The Commissioner
Poonamallee Municipallity, Poonamallee, Chennai - 56.

one cc to the Govt.Pleader, High Court,sr.No.6130/17
One Cc to Mr.D.Ravi, Advocate, Sr.No.6101/2017