

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2017

CORAM

THE HON'BLE MS. INDIRA BANERJEE, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE M.SUNDAR

W.P.No.24843 of 2017

P.Annamalai

.. Petitioner

vs.

1 The District Collector
Villupuram District
Villupuram.

2 The Revenue Divisional Officer
Kallakurichi, Villupuram District.

3 The Special Tahsildar
(Adi Dravidar Welfare)
Kallakurichi
Villupuram District.

4 The Tahsildar
Kallakurichi
Villupuram District.

5 S.Ramasamy

6 S.Boopathy

.. Respondents

PRAYER: Petition under Article 226 of the Constitution of India seeking issuance of a writ of Mandamus directing the respondents to evict the encroachers, respondents 5 and 6 made in Survey Nos. 251/9, 251/10 (Old Survey No.86/7), reserved for common commercial complex for usage of the assignees of lands in Survey Nos. 251, 252 and 253 corresponding to Old Survey No.86/7 at Niraimathi Village, Kallakurichi Taluk, Villupuram District made under Land Acquisition for provision of House Sites to Adi Dravidas, within a reasonable time.

For Petitioner : Mr.P.Rajavel

For Respondents : Mr.M.K.Subramanian
Government Pleader
for respondents 1 to 4

Mr.A.Kalaivannan
for 6th respondent

ORDER

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

This is a public interest litigation.

2. Subject matter of the instant writ petition is land comprised in Survey Nos.251/9 and 251/10 (Old Survey No.86/7) in Niraimathi Village, Kallakurichi Taluk, Villupuram District (hereinafter referred to as "said land" for the sake of convenience and clarity).

3. According to the writ petitioner, said land has been reserved for common commercial complex for usage of assignees of lands comprised in other survey numbers, i.e., S.Nos.251, 252 and 253 (also corresponding to Old Survey No.86/7) at Niraimathi Village, Kallakurichi Taluk, Villupuram District.

4. It is the specific case of the writ petitioner that respondents 5 and 6 have encroached upon said land and thereby the assignees of lands in the aforesaid three survey numbers, i.e., S.Nos.251, 252 and 253, are deprived of the common commercial complex usage, for which the said land has been set apart.

5. Mr.M.K.Subramanian, learned Government Pleader accepts notice on behalf of the official respondents 1 to 4. Mr.A.Kalaivannan, learned counsel accepts notice on behalf of private respondent No.6, who, according to the writ petitioner, is an encroacher in said land along with the fifth respondent.

6. Refuting the allegation of the writ petitioner that the private respondents 5 and 6 have encroached upon said land, Mr.A.Kalaivannan, learned counsel submits that land comprised in Survey No.251/10, i.e., one of the two survey numbers in said land, is patta land and it belongs to respondents 5 and 6.

7. It is brought to our notice that a civil suit is pending between the writ petitioner and the sixth respondent qua said land. Though the suit number and the court on the file of which

the suit is pending is not clear, both the learned counsel for the writ petitioner and the learned counsel for the sixth respondent admit that there is a civil suit qua said land. However, the writ petitioner submits that the civil suit, which is said to have been filed by the sixth respondent against the writ petitioner, has since been dismissed for default.

8. Be that as it may, as it is not in dispute before us that with regard to said land there is a civil suit between writ petitioner and the sixth respondent, a public interest litigation cannot be maintained. It appears to be an attempt to ventilate private grievances and rights in the garb of a public interest litigation, which is impermissible.

Owing to all that have been stated supra, the writ petition is dismissed. However, it is open to the parties to pursue their respective remedies in the aforesaid civil suit and though obvious, it is made clear that this order shall not preclude the parties from pursuing their remedy in the civil suit. No costs.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

sasi
To:

- 1 The District Collector
Villupuram District
Villupuram.
- 2 The Revenue Divisional Officer
Kallakurichi, Villupuram District.
- 3 The Special Tahsildar
(Adi Dravidar Welfare)
Kallakurichi
Villupuram District.
- 4 The Tahsildar
Kallakurichi
Villupuram District.

+lcc to Mr.P.Rajavel, Advocate, S.R.No.69934
+lcc to Mr.A.Kalaivanan, Advocate, S.R.No.70243
+lcc to the Government Pleader, S.R.No.70592

W.P.No.24843 of 2017

GN(11/10/2017)