

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 16.11.2017
CORAM
THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE N.SESHASAYEE
WP.No.29307/2017

A.Mahalingam

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Petitioner

Versus

1.The District Collector
Villupuram District,
Villupuram.

2.The Revenue Tahsildar
Kandachipuram Taluk
Villupuram District.

3.Govindasamy
4.Dhandapani
5.Sami Udayar
6.Durai Udayar

..

Respondents

Writ petition filed under Article 226 of the Constitution of India, praying for a writ of mandamus directing the respondents 1 and 2 herein to forthwith consider the petitioner's representation dated 30.03.2016 by removing all the encroachments put up by the respondents 3,4,5&6 in and over the lands comprised in S.No.191/9 and S.No.190/7 which stands classified as Odai and Kuttai, respectively in the revenue records of Mugaiyur village, Kandachipuram Taluk, Villupuram District and restore the lands in S.NO.191/9 and S.No.190/7 situate at Mugaiyur village, Kandachipuram Taluk, Villupuram District to its original status as that of an Odai [water body] and Kuttai [water body] as classified in the revenue records, within a time frame that may be fixed by this Court.

For Petitioner : Mr.B.Harikrishnan

For RR 1 & 2 : Mr.A.N.Thambidurai, Spl.GP

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.,]

By consent, the writ petition is taken up for final disposal. Mr.A.N.Thambidurai, learned Special Government Pleader accepts notice on behalf of the respondents 1 and 2.

2 The petitioner claims to be the present owner of the agricultural lands admeasuring to an extent of 94 Ares [2.32 acres] in survey No.12/5 situate at Veeracholapuram, Kandachipuram Taluk, Villupuram District and he claims that he has inherited the property by way of succession. The petitioner would further state that he has also applied for patta and the same is pending consideration before the authority concerned and abutting his lands, there are lands in S.Nos.191/1 and 190/9 classified as "Odai and Kuttai" [water bodies] in the revenue records and the water being stored/flowing through it, is used for agricultural activities by the petitioner as well as by the adjacent land owners. It is the specific case of the petitioner that the respondents 3 to 6 had encroached upon the lands in S.Nos.191/1 and 190/9 classified as "Odai and Kuttai" in the revenue records and started carrying on agricultural activities and thereby, obstructing free flow of water. The petitioner, in this regard, has submitted representations dated 05.02.2016 and 27.06.2016 respectively to the 1st respondent for removing the encroachment and it was forwarded to the Revenue Tahsildar, Tirukovilur, who vide communication dated 22.03.2016 in O.Mu.No.A1/3544/2016, has requested the 2nd respondent stating that the matter falls within his jurisdiction and asked him to take appropriate action. The petitioner has also submitted a representation dated 30.03.2016 to the Secretary to Government, Government of Tamil Nadu as well as to the 1st respondent, praying for appropriate action to remove the encroachment and since he has not been favoured with any kind of response, left with no other option only, the petitioner has approached this Court, by filing the present writ petition.

3 The learned counsel for the petitioner would submit that respondents 4 to 6 are the sons of the 3rd respondent and respondents 4 to 6 are actively aiding and abating the 3rd respondent to commit the act of encroachment and therefore, prays for appropriate orders for removal of the encroachment.

4 The Court heard the submissions of Mr.A.N.Thambidurai, learned Special Government Pleader appearing for the respondents 1 and 2 and also perused the materials placed before it.

5 Though the petitioner has prayed for a larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner, either in his representation or in this writ petition, directs the 2nd respondent to put the respondents 3 to 6 on notice and thereafter, consider and dispose of the petitioner's representation dated 30.03.2016 on merits and in accordance with law and pass appropriate orders within a period of ten weeks from the date of receipt of a copy of this order

and communicate the decision taken, to the petitioner as well as to the respondents 3 to 6 herein.

6 The writ petition stands disposed of with the above direction. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

AP

To

1.The District Collector
Villupuram District,
Villupuram.

2.The Revenue Tahsildar
Kandachipuram Taluk
Villupuram District.

+1 cc to Mr.B.Harikrishnan Advocate sr 91255

+1 cc to the Govt Pleader sr 81730

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