

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.06.2018

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

WP.No.10570 of 2018

P.Radhakrishnan

...Petitioner

Vs.

1.The District Collector,
Salem, Salem District.

2.The Sub Collector cum Revenue Divisional Officer
Mettur Dam-I, Mettur Taluk,
Salem District.

3.The Tahsildar,
Taluk Officer,
Kadayampatti Taluk,
Salem District.

4.The Revenue Inspector
Taluk Office,
Kadayampatti Taluk,
Salem District.

...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the respondents to remove the encroachments on river in 30 survey Numbers as mentioned in petitioner's representation dated 26.02.2018 at Danishpettai Village (Periyavadagampatti), Kadayampatti Taluk, as per the order of 1st respondent dated 07.01.2018 and further direct the 1st respondent to initiate disciplinary proceedings against 3rd and 4th respondent by considering petitioner's representation dated 26.02.2018.

For Petitioners : Mr.M.Vijay Anand

For Respondents : Mr.A.N.Thambidurai,
Special Government Pleader

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.

2.The petitioner along with one Chinnarasu had earlier filed W.P.No.9804/2017 praying for issuance of Writ of Mandamus directing the respondents not to dispossess the petitioners from the land in S.No.183/2, Danishpettai Village, Kadayampatti Taluk with a specific extent, except under due process of law and this Court, vide final order dated 17.07.2017, has granted liberty to the petitioner to avail the appeal remedy and till the disposal of the petition for stay or statutory appeal, directed the concerned official respondents to defer further decision.

3. The 1st respondent, vide proceedings dated 07.01.2018 in Na.Ka.No.29351/2017/k2, has dismissed the appeal and further directed the Jurisdictional Revenue officials to remove all the encroachments in S.No.183/2, Danishpettai Village, Kadayampatti Taluk which is classified as ''Odai Poromboke''. The petitioner has given a representation dated 26.02.2018 pointing out that his land has been singled out for the removal of encroachment, whereas there are 29 other encroachments and action is selectively taken against the petitioner and therefore, come forward to file this writ petition.

4. Mr.M.Vijayanand, learned counsel appearing for the petitioner has drawn the attention of this Court to the typed set of documents and would submit that the petitioner has been evicted from the land in question without affording any reasonable opportunity as early as on 07.01.2018 and the fact remains that in respect of all other 29 encroachers, officials have shown benevolence and they continue to remain in occupation and therefore, in this regard, the petitioner has submitted a representation dated 26.02.2018 and since it has not considered and given disposal in accordance with law within a stipulated time, the petitioner has been constrained to move this Court by filing this writ petition.

5. Mr. A.N.Thambidurai, learned Special Government Pleader appearing for the respondents would submit that in the light of the alternative remedy available as to the dismissal of the appeal filed by the 1st respondent, the writ petition is not maintainable and would further add that subject to legal proceedings, if any, filed by the other encroachers, the order of the 1st respondent dated 07.01.2018 is fully implemented and complied with.

6. This Court has considered the rival submission and also perused the materials placed before it.

7. This Court, taking into consideration the above facts and circumstances and without going into the merits of the claim projected by the petitioner, grants liberty to the petitioner to file the revisional remedy under Section 10 A of the Tamil Nadu Land Encroachment Act, 1905 to challenge the order of the 1st respondent dated 07.01.2018 and it is open to the petitioner to file the same within a period of three weeks from the date of receipt of copy of this order by enclosing the relevant and authenticated documents to the Commissioner, Land Administration, Chennai-600 005 and upon receipt of the same, the said revisional authority shall entertain the revision along with petition for stay, if the papers are otherwise in order and give a disposal on merits and in accordance with law within a period of ten weeks from the date of entertainment of the stay and revision petition.

8. Insofar as the removal of other encroachments as ordered by the 1st respondent vide proceedings dated 07.01.2018, the respondent 3 and 4, subject to legal interdict, if any, on the part of the other encroachers, shall carryout the directions given in the said order in accordance with law within a period of eight weeks from the date of receipt of copy of this order and communicate the decision taken to the concerned encroachers/persons concerned.

9. With the above direction, this writ petition stands disposed of. No costs. Consequently connected miscellaneous petitions are closed.

11. Call on 12.07.2018 for filing status report.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

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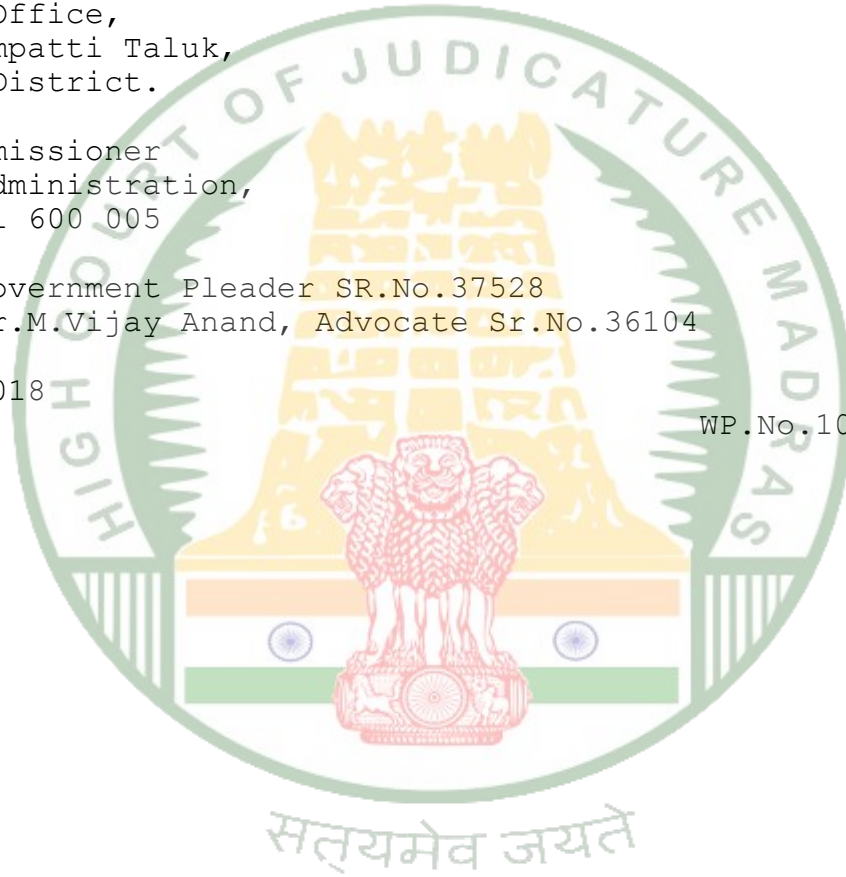
5.The Commissioner
Land Administration,
Chennai 600 005

+1cc to Government Pleader SR.No.37528

+1cc to Mr.M.Vijay Anand, Advocate Sr.No.36104

sm:28.6.2018

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