

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.04.2018

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE P.RAJAMANICKAM

WP.No.8593 of 2018 and WMP.No.10525 of 2018

M.Shahabudeen ... Petitioner

Versus

1.The District Collector,
Kancheepuram District,
Kancheepuram.

2.The Revenue Divisional Officer,
Kancheepuram.

3.The Thasildhar,
Palavaram Circle,
Palavaram.

4.The Executive Officer,
Mangadu Town Panchayat,
Mangadu,
Chennai-600 122.

5.Z.Jamaluthin

6.Balkiz .. Respondents

PRAYER:- Writ petition filed under Article 226 of the Constitution of India prays to issue a Writ of Mandamus directing the respondents 1 to 4 to remove the encroachments made by the 5th and 6th respondents in S.No.123 of Mangadu Village, Chennai-600122 by considering the petitioner's representation dated 23.10.2017.

For Petitioner
For Respondents

:Mr.K.Sasindran
:Mr.A.N.Thambidurai, Spl GP
for R1 to R4

ORDER

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

By consent, the writ petition is taken up for final disposal.

2. The petitioner claims to be the owner of the land in S.No.123 of Mangadu Village, which is classified as burial ground for the Muslim Community people and it is used for the time immemorial and it is under the control of one Syed Sadik Durga, Mangadu, which was managed by the 5th respondent for the past two decades and taking advantage of his possession, he had illegally permitted several persons to encroach upon the burial ground and permitted to put up a superstructure.

3. Hajrath Syed Sadiq Nagar Residential Welfare Association had filed WP.No.23493/2012 against the 1st respondent as well as against the Tamil Nadu Walf Board, praying for removal of encroachment by way of considering the representation dated 08.05.2012 and the said writ petition came to be disposed on 29.08.2012, by directing the concerned respondents to take appropriate action in accordance with law.

4. The learned counsel appearing for the petitioner would submit that the 1st respondent vide proceedings dated 25.07.2013 in Na.Ka.No.23501/12/M2 has directed the 3rd respondent to take immediate and appropriate action to remove the encroachment in Mangadu Village in S.No.123/2, which is classified as 'Rudra Bhoomi'. The 3rd respondent in turn has informed the petitioner vide communication dated 30.03.2016, that on account of on-going election process, action could not be taken and after the completion of election, action will be taken strictly in accordance with law.

5. The learned counsel appearing for the petitioner would submit that even from the year 2016, no action has been taken to remove the encroachment. In this regard, the Assistant Director of Town Panchayat, Kancheeuram, vide memo dated 26.10.2017 in Na.Ka.No.1403/2017 has also directed the 4th respondent to take appropriate action on the representation submitted by the petitioner and communicate the decision taken and since no action has been taken, the petitioner is constrained to approach this Court by filing this writ petition.

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

7. This Court has taken into consideration the above facts and circumstances and without going into the merits of the claim projected by the petitioner, directs the respondents 3 and 4 to act on the communication of the 1st respondent dated 25.07.2013 in Na.Ka.No.23501/12/M2 as well as the memo of the Assistant Director of Town Panchayat, Kancheeuram, dated 26.10.2017 in Na.Ka.No.1403/2017, after putting the respondents 5 and 6 and other encroachers, on notice and thereafter, take appropriate action in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioner as well as the respondents 5,6 and 7 and other persons concerned.

8. The writ petition stands disposed of with the above direction. No costs. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1.The District Collector,
Kancheepuram District,
Kancheepuram.

2.The Revenue Divisional Officer,
Kancheepuram.

3.The Thasildhar,
Palavaram Circle,
Palavaram.

4.The Executive Officer,
Mangadu Town Panchayat,
Mangadu,
Chennai-600 122.

5.The Assistant Director of Town Panchayat
Kancheepuram

+1 cc to M/s.K.Sasendran Advocate sr 27157

+1 cc to M/s.Government Advocate sr 27221

WP.No.8593 of 2018

aa28/04/2018