

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 03.07.2018
CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.11361 of 2018
and WMP.No.13263 of 2018

T.M.Suresh

... Petitioner

Vs.

- 1.Secretary to the Government,
Department of Revenue and Land Administration,
Secretariat, Fort St.George,
Chennai-2.
- 2.The Commissioner,
The Commissioner for Land Administration,
Ezhilagam, Chennai.
- 3.The Director,
The Directorate of Town and Country Planning,
Anna Salai, Chennai-600 002.
- 4.Executive Officer/Member Secretary,
Local Planning Council, Cuddalore,
No.6/4, Sreenivasa Pillai Street,
Cuddalore.
- 5.Executive Officer/Member Secretary,
Local Planning Council, Villupuram,
Villupuram Zone, Villupuram.
- 6.The District Collector,
Cuddalore District, Cuddalore.
- 7.The Revenue Divisional Officer,
Vridhachalam, Cuddalore District,
Cuddalore.
- 8.The Taluk Officer,
Veppur Taluk,
Cuddalore District.

9.The Executive Officer,
Thiruppayar Village Panchayat,
Naaraiyur Post,
Veppur Taluk,
Cuddalore District.

10.Jayapriya Property Developers,
Rep. By its Manager,
No.30, Jeyapriya Building,
Main Road, Neyveli-2.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents 1 to 9 to retrieve the lands, such as Government poromboke, water bodies and the assigned lands comprised in survey numbers and its parts from 141/8 to 166/7 as mentioned in the list annexed with writ petition and situated at the stretch of Keezh Vaikkal Odai, a water channel of Thiruppayar Village, Cuddalore District presently occupied by the 10th respondent by initiating appropriate action and further to forbear the respondents 1 to 9 from granting layout approval and building plan approval and other licences to the 10th respondent under Tamil Nadu Town and Country Planning Act, 1971 and rules thereon, as indicated in the representation of the petitioner dated 02.02.2018.

For Petitioner : Mr.P.G.Thiyagu

For Respondents : Mr.A.N.Thambidurai,
Special Government Pleader for R1 to R9
Mr.S.Shanmuga Sundaram for R10

O R D E R

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

By consent, this Writ Petition is taken up for final disposal.

2. The petitioner, who claims to be a practicing Advocate, came forward to file this Writ Petition, styled as a Public Interest Litigation, alleging that in Thiruppayar Village, Cuddalore District, main occupation is agriculture and almost 500 of them are depending upon income eked out of agricultural operations and they are all small farmers. The petitioner would further state that the residents of the said village as well as agriculturists are depending upon the water source "Periya Eri" and the same has been maintained by Local Body and the source of accumulation of water in the said water body is a catchment area of the said lake, which is located in Cheppakkam.

3. The petitioner, on becoming aware of the fact that in the year 2013, staff and personnel of the tenth respondent tried to fill up the water course as well as to obliterate the water body, has submitted series of representations and also filed W.P.No.11877 of 2013, praying for a Writ of Mandamus directing the official respondents to initiate action and to enquire into the matter against the tenth respondent herein and to furnish a detailed report to this Court. The said writ petition was disposed of, vide order dated 20.06.2016 by directing the Revenue Divisional Officer, Vridhachalam to cause inspection as to the said allegation and a further direction was also passed to the effect that the so-called unapproved layout said to have been developed by the tenth respondent herein cannot be dealt with in any manner whatsoever till such time it obtains approval for the layout from the Member Secretary, Cuddalore Local Planning Authority.

4. The learned counsel appearing for the petitioner would submit that in compliance of the order dated 20.06.2016 made in W.P.No.11877 of 2013, the Revenue Divisional Officer, Vridhachalam has conducted an enquiry and sent a communication in Na.Ka.No.A1/2011/2016 dated 12.12.2016 to District Collector, Cuddalore stating among other things that the lands in possession of the tenth respondent are purchased by him and insofar as the Government lands are concerned, he is not in occupation of the same and also given a word of caution that as and when the tenth respondent approaches for approval of the layout, necessary inspection is to be undertaken before given approval. The primordial submission made by the learned counsel appearing for the petitioner is that admittedly, the tenth respondent had purchased assignment lands in violation of the assignment and that apart, for the purpose of developing layouts, had obliterated and destroyed water course, which leads to "Periya Eri" and the Revenue Divisional Officer, Vridhachalam, without properly looking into the relevant records and without proper application of mind, has sent a communication dated 12.12.2016 to the Collector of Cuddalore District, in order to aid the tenth respondent and therefore, prays for appropriate orders.

5. Per contra, Mr.A.N.Thambidurai, learned Special Government Pleader appearing for the respondents 1 to 9 would submit that the Revenue Divisional Officer, Vridhachalam has taken into consideration all the relevant records and after in-depth analysis, has reached a conclusion that the proper course open to the petitioner is to work out his remedy administratively.

6. Mr.S.Shanmuga Sundaram, learned counsel appearing for the tenth respondent has drawn the attention of this Court to the

counter affidavit of the tenth respondent and would submit that in pursuant to the order passed by this Court dated 20.06.2016 in W.P.No.11877 of 2013, the Revenue Divisional Officer, Virudhachalam has caused inspection and submitted a detailed report to the District Collector, Cuddalore on 12.12.2016 and they approached the jurisdictional Tahsildar to survey and measure the lands and the Tahsildar has concluded that the tenth respondent did not encroach upon any lands and insofar as alleged obliteration of water course is concerned, it is the submission of the learned counsel appearing for the tenth respondent that originally there was a water channel running to the lands of the tenth respondent in S.No.166/8 and the same has been diverted and it runs on the eastern side and the said diversion has been done for free flow of water during rainy season and the tenth respondent did not encroach upon any Government lands and since the points urged by the learned counsel appearing for the petitioner revolve around disputed question of facts, the present writ petition is not maintainable and prays for dismissal of this Writ Petition with exemplary costs.

7. This Court has considered the rival submissions and also perused the entire materials placed before it.

8. The Revenue Divisional Officer, Virudhachalam, in compliance of the order dated 20.06.2016 made in W.P.No.11877 of 2013, has undertaken an elaborate exercise and also prepared Tabulation No.I, II and III as to the ownership of the tenth respondent and assignment of lands said to have been purchased by the tenth respondent is concerned, the Revenue Divisional Officer, Virudhachalam was categorical that on the Government lands, the tenth respondent did not encroach upon and also given a word of caution that without obtaining proper approval, layouts cannot be developed by the tenth respondent.

9. The Revenue Divisional Officer, Virudhachalam also found that the Water Channel in S.No.166/8 has been diverted and it goes through on the northern side of the lands owned by the tenth respondent in S.No.166/7 and as of now, it is in the state of disuse. The Revenue Divisional Officer, Virudhachalam, on going through the records, has exhaustively considered the objections raised by the petitioner and concluded that the tenth respondent did not encroach upon any Government lands and insofar as the assignment of lands in favour of the tenth respondent is concerned, it is not clear from the records as to whether the assignment was given in favour of Adi Dravidar Community or not and the same cannot be put to challenge in the present writ petition.

10. This Court, on an independent application of mind to the entire materials placed before it, especially the communication of the Revenue Divisional Officer, Vridhachalam dated 12.12.2016, is of the considered view that it is based on consideration and appreciation of all the relevant records. It is also to be noted at this juncture that the Revenue Divisional Officer, Vridhachalam, has also sounded a word of caution by directing the authorities to comply due diligence as and when the tenth respondent approaches them seeking layout approval and in all probability, the said exercise may be undertaken by the concerned official in the event of the tenth respondent seeking for layout approval.

11. Hence, for the reasons assigned above, this Court is of the considered view that the present Writ Petition lacks merit and deserves dismissal and accordingly, dismissed. No costs. Consequently, connected miscellaneous petition is dismissed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

jvm

To

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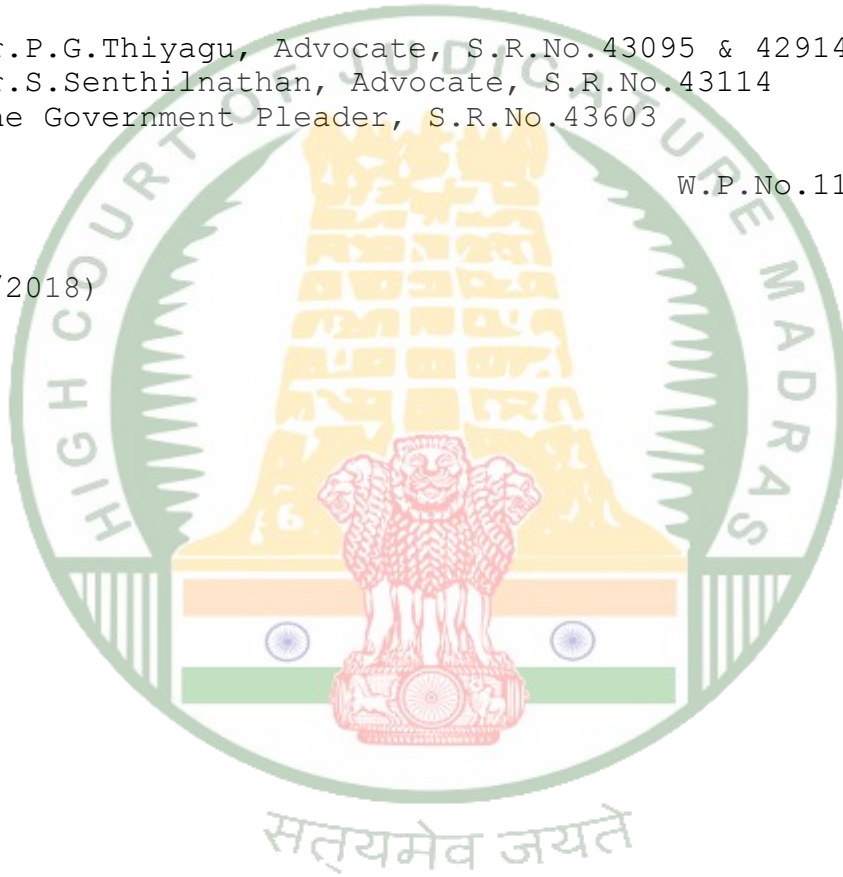
+2cc to Mr.P.G.Thiyagu, Advocate, S.R.No.43095 & 42914

+1cc to Mr.S.Senthilnathan, Advocate, S.R.No.43114

+1cc to the Government Pleader, S.R.No.43603

W.P.No.11361 of 2018

RSK(CO)
GSP(16/07/2018)



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