

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.VENUGOPAL
AND
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.34014 of 2017

N.Ganesan .. Petitioner

Vs.

1. The District Collector, Dharmapuri District.

2. The Executive Engineer,
Public Works Department,
Dharmapuri.

3. The District Revenue Officer, Pennagaram.

4. The Thasildar, Pennagaram.

5. The Village Administrative Officer,
Arakasanahalli Village, Dharmapuri District.

6. G.Vijaya .. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the first respondent to pass an appropriate order in petitioner's representation, dated 30.10.2017 within time frame manner.

For petitioner : Mr.K.Sudhakar

For respondents: Mr.R.Venkatesh, Govt. Advocate

For RR-1 to 4 : Mr.M.Selvam for R-5

ORDER

(The Order of the Court was made by S.Vaidyanathan, J)

The petitioner has come forward with this Writ Petition praying for issuance of a Writ of Mandamus to direct the first respondent to pass an appropriate order in petitioner's representation, dated 30.10.2017 within time framer.

2. The case of the petitioner is that he is doing agricultural work for longer time and that the petitioner is the

owner of the property and using S.F.No.185 to reach his property, and the said S.F.No.185 is classified as river bed and that all the residents in that area use the place to commute and that there is no other way to reach the writ petitioner's property except S.F.No.185. On the Western side of the river bed, the fifth respondent is having land in S.No.202/1 and taking advantage of the same, the fifth respondent has encroached the land in S.F.No.185 and preventing the petitioner and other encroachers from using the property. Due to rain, the water is full in the water bodies and that there is no other way to reach the petitioner's property, except the river bed.

3. When the Writ Petition was taken up in admission stage, this Court, after hearing the petitioner, directed the fourth respondent-Tahsildar, Pennagaram to submit status report. Accordingly, status report is produced in the form of letter addressed by the fourth respondent-Tahsildar, Pennagaram to the Government Advocate of this Court, dated 22.01.2018, wherein it has been stated that S.Nos.178 and 185 had been encroached and that steps have been taken to remove the encroachment and the entire survey number in which not only the fifth respondent, but also the petitioner and three others were residing, pertains to river poramboke. The Adangal extract/Revenue Records are produced in the typed set of papers filed along with the Writ Petition, which clearly shows that S.No.185 is a river poramboke. However, the petitioner has not produced the relevant documents with regard to S.No.178, which is occupied by the petitioner, fifth respondent and three others.

4. Taking note of the submissions made on either side and that, as not only the fifth respondent, but also the petitioner and others had encroached on the river bed in S.Nos.178 and 185, the respondents 1 to 4 are directed to remove the encroachment in question, as the Supreme Court has time and again held that there shall not be any encroachment on the river bed/water bodies/water courses. Further, the Supreme Court as well as this Court, in a catena of decisions, have stressed that no encroachment should be tolerated over the water bodies which constitute part of the precious natural resources and it needs to be protected in the interest of public. If the water bodies and water courses are allowed to be encroached upon, it would result in reduction in the flood storing and carrying capacity, forcing the water to deviate from its regular course and enter the residential areas causing devastating effects, more particularly, the flood, which we lastly experienced in December 2015.

5. Hence, instead of allowing the Writ Petition as prayed for by the petitioner, this Court directs the respondents 1 to 4 to remove the encroachment in question in the river bed within a period of 30 days from the date of receipt of a copy of this order. It is needless to mention that the Authorities shall take the assistance of Police, if necessary, in this regard. The Writ Petition is disposed of accordingly. No costs.

Sd/-
Deputy Registrar (CS-)

//True Copy//

Sub Assistant Registrar

cs

To

1. The District Collector, Dharmapuri District.
 2. The Executive Engineer,
Public Works Department,
Dharmapuri.
 3. The District Revenue Officer, Pennagaram.
 4. The Thasildar, Pennagaram.
 5. The Village Administrative Officer,
Arakasanahalli Village, Dharmapuri District.
- + CC to N.Selvam Advocate Reg.No.5617
+ Cc to K.Sudhakar Advocate Reg.No.5766
+ CC to Govt Pleader Govt Pleader Reg No.6190

W.P.No.34014 of 2017

Co (VV)
smn (10/02/2018)