

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.08.2018

CORAM:

THE HON'BLE MR.JUSTICE M.VENUGOPAL
AND
THE HON'BLE Mrs.JUSTICE S.RAMATHILAGAM

W.P.No.22332 of 2018

Mani ... Petitioner

vs.

1.The District Collector,
Krishnagiri District.

2.The Revenue Divisional Officer,
Krishnagiri,
Krishnagiri District.

3.The Tahsildar,
Pochampalli Taluk,
Krishnagiri District.

4.Madhu

5.Mari

6.Damothiran

7.Madhu

... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents 1 to 3 to consider the Petitioner's Representation dated 17.07.2018 to remove the illegal encroachment by the Respondents 4 to 7 in Survey Nos.249/2, 250B/3 and 251/B2 of Thathampatti Village, Pochampalli Taluk, Krishnagiri District, within a stipulated time.

For Petitioner : Mr.K.Thiruvengadam

For Respondents: Mrs.Rose Kamalam

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O R D E R

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

Heard both sides. No counter is filed on behalf of the Respondents 1 to 3.

2.To avoid an avoidable delay, notice to R4 to R7 is dispensed with, in the interest of justice.

3. According to the Petitioner, he and his wife Kalaivani are the owners of agricultural land in Survey Nos.151B/1-0.55 Acres and 251B/4-2.45 Acres totally measuring 3.00 Acres in Thathampatti Village, Pochampalli Taluk, Krishnagiri District. To have an access to his land from the Road, there is a 'Pathway' in Government Poramboke land in Survey Nos.249/2, 250B/3 and S.No.251B/2 of Thathampatti Village, Pochampalli Taluk, Krishnagiri District. According to the Petitioner, the Respondents 4 to 7 had illegally encroached and planted small coconut siblings and other trees in the said Pathway, in a manner obstructing the access to him. The said 'Pathway' is the only access to his lands. Other Farmers, in the said locality, are also using the 'Pathway'. Respondents 4 to 7 are illegally occupying the Government Poramboke land and further they are influential persons.

4. The grievance of the Petitioner is that he addressed a Representation dated 17.07.2018 to the Respondent 1 to 3 to remove the illegal encroachments made by the Respondents 4 to 7 in Government Poramboke land in Survey Nos.249/2, 250B/3 and S.No.251B/2 of Thathampatti Village, Pochampalli Taluk, Krishnagiri District.

5. In fact, the First Respondent, through his Proceedings in O.Mu.17985/2018/H3, dated 19.07.2018, had directed the Third Respondent to take action on the Petitioner's Representation dated 17.07.2018, under Land Encroachment Act, 1905 and G.O.Ms.No.540. But no tangible action has been taken so far in regard to the Representation of the Petitioner dated 17.07.2018. Hence, the Petitioner has filed the present Writ Petition.

6. It comes to be known that the First Respondent/District Collector, Krishnagiri, in the Memorandum, in reference No.17985/2018/H-3, dated 19.07.2018, had enclosed the Petitioner's Representation, dated 17.07.2018, to the 3rd Respondent/Tahsildar, Pochampalli Taluk, Krishnagiri District, for taking necessary action. Further the 3rd Respondent was directed to register the Complaint in the 'Encroachment Removal Register' and to act as per the ingredients of the Tamil Nadu Land Encroachment Act, 1905, coupled with the guidelines mentioned in G.O.540 and to submit a Report with necessary documents.

7. It appears that even though the First Respondent/District Collector, Krishnagiri District, had addressed an Official Memorandum, dated 19.07.2018 to the 3rd Respondent/Tahdilar, Pochampalli Taluk, Krishnagiri District, to take necessary action, as aforesated, since there is no tangible progression in the subject matter in issue till date, this Court, at this stage, in the interest of justice, without expressing any opinion on the merits of the matter, simpliciter

directs the 3rd Respondent/Tahsildar, Pochampalli Taluk, Krishnagiri District, to look into the Representation of the Petitioner, dated 17.07.208, within two weeks from the date of receipt of copy of this order. Thereafter, the 3rd Respondent/Tahsildar, Pochampalli Taluk, Krishnagiri District, is directed to pass a reasoned speaking Order on merits and in accordance with Law, of course, after providing necessary opportunity of hearing to the Petitioner, by adhering to the Principles of Natural Justice, within a period of four weeks thereafter. Prior to the passing of final Order, the 3rd Respondent/Tahsildar, Pochampalli Taluk, Krishnagiri District, shall give notice to the Respondents R4 to R7 and others concerned, by specifying the date of hearing and time and to hear their objections, along with the Petitioner's Objections and to pass the final Order in the subject matter in issue. It is open to the Petitioner to raise all factual and legal pleas before the 3rd Respondent, who shall advert to the same, at the time of passing the final order in issue.

With the above observations/directions, the Writ Petition shall stand disposed of. No costs.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

msk

To

1.The District Collector,
Krishnagiri District.

2.The Revenue Divisional Officer,
Krishnagiri,
Krishnagiri District.

3.The Tahsildar,
Pochampalli Taluk,
Krishnagiri District.

+1cc to Mr.K.Thiruvengadam, Advocate, S.R.No. 59564
+1cc to the Government Pleader, S.R.No. 60149

W.P.No.22332 of 2018

GN(12/09/2018)