

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :05.10.2018
CORAM
THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
W.P.No. 30856 of 2014
M.P.No.1 of 2014

M/s.Sri Venkateswara Middle School,
Represented by its Correspondent Mr.N.Ranjit,
Hanumar Koil Street, Radha Nagar,
Chrompet, Chennai - 600 044. ..Petitioner

vs

1. The District Collector,
Kancheepuram District,
Kancheepuram.

2. The Revenue Divisional Officer,
Tambaram, Chennai - 600 045.

3. The Tasildhar,
Aalandur Taluk,
Chennai - 600 063. .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus to call for the records relating to the impugned proceeding in ref Rc.No.3468/2014/N1 dated 25.03.2014 issued by the first respondent to the petitioner and quash the same in respect of the petitioner and consequently direct the first respondent to issue patta to the extent of 2 acre 51 cents situated in Survey No.431/2 and 432/10 at Zamin Pallavaram Village, Tambaram Taluk, Kancheepuram District in the name of the petitioner.

For Petitioner : Mr.D.Senthilkumaar

For Respondents : Mr.R.Selvam

Government Advocate

O R D E R

The impugned order dated 25.03.2014 issued by the District Collector, Kancheepuram District, in respect of the removal of encroachments in the Government land, is under challenge in this writ petition.

2. The writ petitioner states that the petitioner is running a Middle School for over 50 years and the school is recognized by the Government of Tamil Nadu vide proceedings in RC.386-D/62 dated 21.07.1962. The petitioner states that, the School is one of the oldest schools in the Tambaram, Chrompet area. Many of the prominent personalities studied in this School. A land measuring an extent of 2.51 acres comprised in Survey No.431/2 and Survey No.432/10, situated at Zamin Pallavaram Village, previously Saidapet Taluk, presently Alandur Taluik, previously Chengalpattu District, presently Kancheepuram District was under the occupation of the writ petitioner.

3. The petitioner in his affidavit enumerates so many good things about the School which may not be of much relevance in respect of the issue involved in the present writ petition. This Court is not disputing the good things done by the school and by the teachers and by the persons concerned. The question to be decided in this writ petition is that whether the writ petitioner is an encroacher or not. Admittedly the writ petitioner has not established title, ownership by producing the original documents before the District Collector, Kancheepuram District. The petitioner School submitted a representation to the District Collector, Kancheepuram stating that they need additional land for the purpose of developing the School. This apart, a complaint also has been registered by stating that one Mr.Marimuthu deliberately encroached the Government land and raised the compound wall, with his political influence. The petitioner had immediately lodged a police complaint before the Inspector of the Police and the Police had not taken any steps against Mr.Marimuthu and he is allowed to continue in the encroached portion of the Government land and he started increasing the length of the compound wall by using his political power and muscle and money power. He had done many unlawful acts and the police has shown deaf ears, in respect of the complaints and the demands made by the writ petitioner School. The petitioner School had sent a complaint to the District Collector, Kancheepuram District, Tahsildar, Alandur Taluk, stating that Mr.Marimuthu had encroached into the petitioner's School premises and raised a compound wall in the School. The said Mr.Marimuthu was also trying to raise further construction in the said land.

4. Under these circumstances, the grievances of the writ petitioner was adjudicated by the District Collector, Kancheepuram. The District Collector, Kancheepuram in his order enumerates that Managing Correspondent, Sri Venkateshwara Middle School has made a complaint in Chitlapakkam Police Station, Chennai - 64, stating that Sri Venkateshwara Middle School was started in the year 1953 as Tamil Medium Elementary School in Radha Nagar, Chrompet. In order to provide more accommodation and play ground facilities for the school, the District Revenue Officer, Chengalpattu in proceedings dated 23.07.1963 has accorded permission to enter upon 2.51 acres of land comprised in S.No.431/2 and 432/10 of Zamin Pallavaram Village to Sri Venkateshwara Middle School, Chrompet as detailed below:

Name of the Taluk and Village

Survey No.

Extent

Classification

Extent temporarily granted A. C.

Purpose

Saidapet Taluk Zamin Pallavaram Village

431/2

1.51

Tanked Poramboke

1.51

For play ground purpose

-do-

432/10

115.44

Tank Poramboke

1.00

For School purpose

The conditions prescribed in Rc.39343/1963 B1, dated 23.07.1963 are as follows:

- (i)The temporary permission granted in these orders is liable to be revoked at any time without any previous notice and without paying any compensation.
- (ii)No permanent structure or a well should be put up on the lands but only thatched sheds could be

put up for conducting the classes and

(iii) The appropriate block rate of assessment will be levied during the period of temporary occupation.

5. The Managing Correspondent made a representation that their possession should not be interfered till the orders are passed by the District Collector. The earlier writ petition filed by the writ petitioner No.19270/1998, this Court passed an order stating that the possession of the petitioner should not be disturbed till the representation is disposed of by the District Collector. Meantime, M/s.Sri Venkateshwara Middle School represented by its Correspondent Mr.N.Ranjit has filed W.P.No.33903 of 2013 before this Court. In another writ petition in W.P.No.53803 of 2013, this Court passed an order on 16.12.2013 and the relevant paragraph is extracted hereunder:

"There shall be a direction to the District Collector, Kancheepuram to inspect the property, which is the subject matter of this writ petition and to take immediate action to remove the encroachment without notice to the affected parties. Such exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order".

6. Pursuant to the directions issued by the High Court, the District Collector conducted the inspection in respect of the land in Survey No.432/10 on 01.03.2014. During the field inspections made along with the Tahsildar and other revenue officials, it is found that the school authorities has fenced an extent of 1.34 acres of land in Survey No.432/10 against prior entry permission for 1.00 acre given in the reference cited and thereby encroached an extent of 0.34 cents in the land classified as □Eri□ further one Thiru Marimuthu has raised a wall by hollow-blocks to the height of 10 feet on the encroached portion made by the school authorities by raising compound wall to 2.0 metre by joining both ends inside.

7. The Tahsildar, Alandur in his report dated 04.03.2014 has stated that only prior entry permission has been given in Survey No.432/10 to an extent of 1.00 acre during the year 1963, but the school authorities raised compound wall to an extent of 1.34 acre. In the encroached area, there are permanent structure raised by the school authorities in the highly objectionable poramboke which is against the condition imposed at the time of giving enter upon permission. Further there are some habitations in this Eri poramboke, with an intention to trespass the Government land. The Tahsildar, has further furnished the details of four boundaries of the above land occupied by the above educational institution.

North by □ Dumping yard

South by □ Habitations in patta land

East by □ Burail ground (in Tank area)

West by □ Habitations (encroachmnts made in Tank area).

8. It is evident that the school authorities further encroached the land in Survey No.432/10 in the tank-bed area to an additional extent of 0.34 acres of land with an intention to grab the Government land. Already 1.00 acre of land was given prior entry permission for utilizing the land for school play ground, but the said land was not kept use for the purpose for which it was granted and at present the land is kept idle without any playing equipments, etc. Thus the conditions imposed are violated. Under these circumstances, as per High Court orders, actions had to be taken to evict the unauthorised occupation of highly objectionable poramboke land by the school authorities and others. The Principle Secretary and Commissioner of Land Administration, Chennai-5 in his letter dated 15.07.2011 instructed for strict compliance of Supreme Court of India Judgment orders in SLP) No.3109/2011, dated 28.01.2011 filed by Jagpal Singh & Others in which it has been ordered for the speedy eviction of such illegal occupant in water bodies. Therefore, the second and third respondents i.e., Revenue Divisional Officer, Tambaram and the Tahsildar, Alandur respectively in this case are hereby directed to evict the encroachments made by the above institution in

SF.No.432/10 in Zamin Pallavaram village and other various persons, as reported by the Tahsildar, Alandur, and report the same.

9. The learned Government Advocate also informed this Court that there are encroachments in water bodies and water resources by other persons, others than the School authorities. The District Collector has passed the orders to remove all such encroachments in the water bodies as per the orders of the Hon'ble Supreme Court of India. Thus, there is no infirmity as such in respect of the order, which is under challenge in this writ petition.

10. This Court is of an opinion that water bodies and water resources are to be protected by the State and there cannot be any encroachments in respect of such water bodies. This Court has elaborately dealt the issues in respect of encroachments in water bodies and water resources in the case of M/s.Chettinad Cement Corporation Ltd vs. State of Tamil Nadu, rep. by Principal Secretary to the Government and others in WP.No.4779 of 2015, dated 13.08.2018 and the relevant paragraphs are extracted hereunder:

11. ENCROACHMENT □ AS AN ISSUE:-

(1) The Black's Law Dictionary defines encroachment as □an infringement of another's rights; an interference with or intrusion onto another's property□. The word 'Encroach' is defined as □to enter by gradual steps or stealth into the possessions or rights of another; to trespass or intrude; to gain or intrude unlawfully onto another's lands, property or authority□. Thus, it is unambiguous that encroachment is an offence. Encroachment amounts to a criminal trespass into the property belongs to another.

(2) The definition of encroachment is also defined in Section 2(1)(c) of the Tamil Nadu Land Encroachment Act, 1905 (Act III of 1905). Encroachment means, unauthorised occupation of land and public land by way of putting temporary, or permanent structure for residential or commercial use or any other use.

(3) The encroachment process gradually gains momentum from the following factors:-

- (i) Lack of periodical monitoring;
- (ii) Weakening of Social bondage;
- (iii) People's justification of their position by citing wrong examples;
- (iv) Delayed realisation of the ill-effects caused by encroachments;
- (v) Negligence of Government functionaries and lack of timely action. However, it is pertinent to note the fact that the basis of the alarming rise of encroachments is the greed, selfishness, and jealousy of people.

(4) Section 441 of the Indian Penal Code states; □whoever enters into or upon property in the possession of another with intent to commit an offence or to intimidate, insult or annoy any person in possession of such property, or, having lawfully entered into or upon such property, unlawfully remains there with intent thereby to intimidate, insult or annoy any such person, or with intent to commit an offence, is said to commit 'criminal trespass'.□ The term 'criminal trespass' has been defined in Black's Law Dictionary as □a person who enters on the property of another without any right, lawful authority or an express or implied invitation or licence□. But when trespass is committed with a criminal intention, it is treated as an offence and is made punishable under the Indian Penal Code. A punishment is that □whoever commits criminal trespass shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(5) The land encroachment is a social evil. Encroachment is a passive form of land grab movement,

which mirrors man's innate greed for land and his natural tendency towards aggrandizement of wealth in any form. Encroachment of Government property is a loss not only for the Government but also the public, as huge amount of money would be spent again to acquire new property.

(6) The Government lands are for the welfare of the public in general and to create common infrastructure for the usage and benefit of, we the people of India. Thus, the matter of encroachment of Government land cannot be treated ordinarily and it should be treated as a grave offence against, the State.

(7) Article 300-A of the Constitution of India deals with persons not to be deprived of property save by authority of law. No person shall be deprived of his property save by authority of law. Thus, the State being a [person], cannot be deprived of its right of property and any intruder is liable to be prosecuted under the provisions of the Land Encroachment Act as well as under the Penal Law. Thus, this Court is of the opinion that the rights conferred to a person under Article 300-A of the Constitution of India, is certainly available to the State and the State has got every right to initiate appropriate legal action against the encroachers.

(8) The preamble of the Constitution 'WE THE PEOPLE OF INDIA', is the heart and soul of the Constitution. Article 12 of the Constitution provides definition for the State. Accordingly, 'the State' includes the Government and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India. Thus, State is a person and therefore, all public lands belong to the State and we the people of India are the owners of the land. Thus, the right of property provided under Article 300-A is to be extended to the State as a person. In other words, the property belongs to the State is also protected under Article 300-A of the Constitution of India. Thus, any encroacher of a public/Government land is certainly depriving the right of property of the State to possess the same under Article 300-A of the Constitution of India. Therefore, the question of de-linking such encroachers otherwise will not arise at all. Question of extending the equality clause or the discrimination clause will not arise at all to the encroacher as an offender and an offender citing the offence committed by one offender, another one cannot claim that he should also be exonerated from the offence. Such a dangerous proposition, cannot be adopted at any circumstances and in the event of connivance with the officials in this regard also to be viewed very seriously.

(9) This Court wishes to ask a question whether any citizen of this country will allow another citizen to encroach the property owned by him. Litigations in lakhs and lakhs are pending before various Courts in our Great Nation only to establish the rights of such citizen in respect of their property. Such being the law of this country, how a State land can be allowed to be encroached by another citizen and such offences are dealt in a casual manner by the officials. Due to the constant increase of market value of the immovable property in this Great Nation, the public officials are also contributing for the dilution of the implementation of various laws in this regard, more specifically, while dealing with the Government lands. Such actions deserve to be condemned and such officials are to be dealt with iron-heart and no leniency can be shown to such public officials.

12. The Tamil Nadu Land Encroachment Act, 1905, is an Act, which provide measures for taking unauthorised occupation of land which are the property of the Government. The preamble of the Act provide measures for checking unauthorised occupation of lands which are the property of the Government, whereas, it has been the practice to check the unauthorised occupation of lands which are the property of the Government and by imposition of penal or prohibitory assessment or charge and whereas, the doubts have arisen as to how far such practice is authorized by law and it is expedient to make statutory provision for checking such occupation. The Act provides for removal of encroachment and the implementation of the Act by the Government officials are to be done in a

manner prescribed under the Act. Any violation of the officials also to be viewed seriously.

13. With this background, it is necessary to go into the legal principles laid down by the Courts on encroachments:

(i) In *PANDIA NADAR AND ORS v. THE STATE OF TAMIL NADU AND ORS* [1974 AIR 2044], the Constitution Bench of the Hon'ble Supreme Court rendered a Judgment on 30th April 1974 wherein, the very constitutional validity of the Tamil Nadu Land Encroachment Act, 1905 was tested. While dismissing the Appeals filed by land encroachers, the Hon'ble Supreme Court held as follows: This Court then went on to apply those principles to the statutes under consideration in the following words :

"The statute itself in the two classes of cases before us clearly lays down the purpose behind them, that is that premises belonging to the Corporation and the Government should be subject to speedy procedure in the matter of evicting unauthorized persons occupying them. This is a sufficient guidance for the authorities on whom the power has been conferred. With such an indication clearly given in the statutes one expects the officers concerned to avail themselves of the procedures prescribed by the Acts and not resort to the dilatory procedure of the ordinary Civil Court. Ever, normally one cannot imagine an officer having the choice of two procedures, one which enables him to get possession of the property quickly and the other which would be a prolonged one, to resort to the latter. Administrative officers, no less than the courts, do not function in a vacuum. It would be extremely unreal to hold that an administrative officer would in taking proceedings for eviction of unauthorised occupants of Government property or Municipal property resort to the procedure prescribed by the two Acts in one case and to the ordinary Civil Court in the other. The provisions of these two Acts cannot be struck down on the fanciful theory that power would be exercised in such an unrealistic fashion. In considering whether the officers would be discriminating between one set of persons and another one has got to take into account normal human behaviour and not behaviour which is abnormal. It is not every fancied possibility of discrimination but the real risk of discrimination that we must take into account. This is not one of those cases where discrimination is writ large on the face of the statute. Discrimination may, be possible but is very improbable. And if there is discrimination in actual (1) [1952] SCR 435 (2) [1962] 2 SCR 125 (3) [1960] 2 SCR 646 (4) [1954] SCR 30.

practice this Court is not powerless. Furthermore, the fact that the Legislature considered that the ordinary procedure is insufficient or ineffective in evicting unauthorised occupants of Government and Corporation property, and provided a special speedy procedure therefore is a clear guidance for the authorities charged with the duty of evicting unauthorised occupants. We, therefore, find ourselves unable to agree with the majority in the Northern India Caterers' case."

(ii) In *KRISHNAN, L. v. STATE OF TAMIL NADU* [2005 (4) CTC 1], His Lordship Justice F.M. Ibrahim Kalifulla, speaking for the Bench, held as follows:

¶9. In this connection reference may be made to Article 48A of the Constitution which states: -

"Protection and improvement of environment and safeguarding of forests and wild life: - The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country."

10. No doubt the above provision is in the Directive Principles of State Policy, but it is now well settled that the fundamental rights and directive principles have to be read together, since it has been mentioned in Article 37 that the principles laid down in the Directive Principles are fundamental in the governance of the country and it is the duty of the State to apply these principles in making laws. The Directive Principles embody the aim and object of the State under a Republican Constitution, i.e., that it is a welfare State and not a mere police State, vide *Kesavananda Bharati Vs. State of Kerala*, (1973) 4 SCC 225 (vide paragraphs - 134, 139 and 1714) and embodies the ideal of socio-economic justice, vide *Union of India Vs. Hindustan Development Corporation*, AIR 1994 SC

988 (990).

11. Though the early decisions of the Supreme Court paid comparatively scant attention to the Directive Principles in Part - IV of the Constitution as they were said to be non-justiciable and nonenforceable in the Courts (vide Article 37), the subsequent decisions of the Supreme Court changed this trend and this new trend reached its culmination in the 13 member bench Judgment of the Supreme Court in *Kesavananda Bharati's Case* (Supra), which laid down that there is no disharmony between the directive principles and fundamental rights because they supplement each other in aiming at the same goal of bringing about a social revolution and the establishment of a welfare State, which is envisaged in the Preamble to the Constitution. The Constitution aims at a synthesis of the two, and the Directive Principles constitute "the conscience of the Constitution". Together they form the core of the Constitution, vide *Markandeya, V. Vs. State of A.P.*, AIR 1989 SC 1308 (paragraph - 9). They are not exclusionary, but are complementary to each other, vide *Unnikrishnan, J.P. Vs. State of A.P.*, AIR 199 3 SC 2178. It follows therefore that the courts should uphold, as far as possible, legislation enacted by the State which seeks to remove inequalities and attain 'distributive justice', vide, *Lingappa Pochanna Appealwar Vs. State of Maharashtra*, AIR 1985 SC 389 (paragraphs 1 6 and 20), *Manchegowda Vs. State of Karnataka*, AIR 1984 SC 1151, *Fateh Chand Himmatlal Vs. State of Maharashtra*, AIR 1977 SC 1825, etc., In recent decisions the Supreme Court has been issuing various directions to the Government and administrative authorities to take positive action to remove the grievances which have been caused by nonimplementation of the Directive Principles, vide *Comptroller and Auditor General of India Vs. Jagannathan*, AIR 1987 SC 537 (paragraphs 20-21), *Mukesh Advani Vs. State of M.P.*, AIR 1985 SC 1363, *Bandhua Mukti Morcha Vs. Union of India*, AIR 1984 SC 802, *Animal and Environment Legal Defence Fund Vs. Union of India*, (1997) 3 SCC 549, etc.

12. Apart from the above we may also refer to Article 51A(g) of the Constitution which makes it a fundamental duty of every citizen "to protect and improve the natural environment including forests, lakes, rivers and wild life". This duty can be enforced by the Court, vide *Animal and Environment Legal Defence Fund Vs . Union of India* (supra, vide para-15).

13.....

14. Therefore, we direct the respondents 1 to 5 to take necessary legal steps to remove the alleged encroachments made by the respondents 6 to 12 as well as the petitioner over Odai Poramboke in Iyan Punji Survey No.100/1 at No.247, Tatchur Village, Kallakurichi Taluk, Villupuram District measuring 5 acres and 70 cents. Inasmuch as this writ petition has come before us by way of a public interest litigation, we take this opportunity to direct the State Government to identify all such natural water resources in different parts of the State and wherever illegal encroachments are found, initiate appropriate steps in accordance with the relevant provisions of law for restoring such natural water storage resources which have been classified as such in the revenue records to its original position so that the suffering of the people of the State due to water shortage is ameliorated.□

(iii) In an important Judgment, the Hon'ble Supreme Court in *JAGPAL SING v. STATE OF PUNJAB* [AIR 2011 SCC 1123], has held as follows:

□13. We find no merit in this appeal. The appellants herein were trespassers who illegally encroached on to the Gram Panchayat land by using muscle power/money power and in collusion with the officials and even with the Gram Panchayat. We are of the opinion that such kind of blatant illegalities must not be condoned. Even if the appellants have built houses on the land in question they must be ordered to remove their constructions, and possession of the land in question must be handed back to the Gram Panchayat. Regularizing such illegalities must not be permitted because it is Gram Sabha land which must be kept for the common use of villagers of the village. The letter dated 26.9.2007 of the Government of Punjab permitting regularization of possession of these unauthorized occupants is not valid. We are of the opinion that such letters are wholly illegal and without jurisdiction. In our opinion such illegalities cannot be regularized. We cannot allow the

common interest of the villagers to suffer merely because the unauthorized occupation has subsisted for many years. □

21. For the reasons given above there is no merit in this appeal and it is dismissed.□

14.It is categorically stated in the counter affidavit filed by the respondents that the portion of the land encroached by the writ petitioner is a Government Poramboke land, which is preserved as water body. The Hon'ble Division Bench of our High Court in the case of T.S.Senthil Kumar, Vs. The Government of Tamil Nadu, rep.by its Secretary, Public Works Department, in W.P.No.20021 of 2008 dated 10.02.2010 and the relevant paragraphs are extracted hereunder:

□From the above, it is seen that the Act in question has come not a day sooner, because we have seen that the Ramsar Convention includes as wetlands, not only natural wet lands, but even human-made wetlands such as waste water treatment ponds and reservoirs. Therefore, tanks and tank poramboke lands would definitely require protection from encroachment.□

□18.Considering the fact that we have adopted wet land conservation policy which takes note of the environmental value and functions of wet lands and the fact that they deserve to be protected, the State may take steps to protect all water bodies and not only tanks. In L.Krishnan's case - AIR 2005 Madras 311, this Court has referred to the judgment of the Supreme Court in AIR 2001 SC 3215, where the maintenance of ecological balance has been highlighted and this Court has also specifically indicated that it is imperative to see that water storage resources such as tanks, odais, oranis, canals are not obliterated by encroachers. Right to water is a part of life and, therefore, as observed by the Supreme Court in Hinch Lal Tiwari v. Kamal Devi and others - AIR 2001 SC 3215, demands of economic development must be made without compromising the natural resources of the earth which this generation holds in trust for future generation. The order of inter-generational equity has to be remembered and in fact in the Rio Declaration, to which India is a party, it has been affirmed that environmental protection constitutes an integral part of sustainable development and cannot be isolated from it.□

□19.Persistent developmental activities, ignoring the need to protect natural resources, have caused irreparable damage. It is also necessary that the State shall not invoke Section 12 of the Act which results in alienation of tank poramboke lands citing "public interest". Protection of water resources is as much as a public interest issue as any other requirement. The Government may also bear in mind that water resources have to be protected while issuing patta to persons who claim to have resided in the same place for a number of years.□

15.The Hon'ble High Court, in the above said case issued directions to the State, which reads as under:

□(a)The State shall scrupulously follow the provisions of the Act. It shall also ensure that all the District Collectors and other authorities, who are concerned with the observance of the provisions of the Act, strictly follow the letter, dated 10.10.2007.

(b)The District Collectors, while creating adequate awareness, may also enlist the help of Self Help Groups to disseminate the message that protection of water resources will actually promote the welfare of the villages and therefore it is in the interest of every citizen to make sure that he is not encroaching on a tank and to clear tanks and water bodies which are filled with garbage and to avoid dumping of garbage will automatically enhance and improve the public health of the community.

(c)As already stated, the State will ensure that alienation of tank poramboke lands, citing public interest, shall not be made under Section 12 of the Act. The meaning and weight of the words "public interest" shall be implicitly borne in mind.

(d)The State holds all the water bodies in public trust for the welfare of this generation and all the succeeding generations and, therefore, protecting water bodies must be given as much weightage, if not more as allowing house-sites or other buildings to come up on such tanks or tank poramboke

lands, and water charged lands.

(e)The State shall also bear in mind the provisions of this Act and the objects and reasons of this Act while issuing patta to persons who claim to have resided in the same place for a number of years and if necessary modify the relevant Government Orders to make sure that the implementation of these G.Os. are not in violation of this very valuable and important Act, namely Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007.□

16.The Hon'ble Division Bench of our High Court in W.P.No.26364 to 26376 of 2017 dated 10.10.2017, held as follows:

□8.A perusal of the typed set of documents filed in support of these writ petitions would reveal a shocking and sorry state of affairs. Admittedly, the petitioners are ranked encroachers and however, the concerned revenue officials have failed to take action at the relevant point of time and therefore, allowed them to perpetuate the illegality and the petitioners/their predecessors have, not only stopped with the illegal act of encroachment ; but also got emboldened on account of the inaction on the part of the revenue officials as well as the Local Body officials and proceeded to construct palatial superstructures, without any authorisation or planning permission and also leased out the same for commercial purposes. It appears that it was / is a deliberate and wilful act on the part of the revenue officials as well as the Local Body officials as to the non-taking of any action to abate such illegalities.□

□The respondents shall cause inspection of the entire area in question and identify the encroachers as well as the unauthorised / deviated constructions and take necessary and appropriate action within a period of ten weeks from the date of receipt of a copy of this order and file a COMPLIANCE REPORT to this Court.□

□The Administrative Department of the Government is directed to identify the officials concerned as to the continued laxity and exhibition of callousness and apathy in performing / discharging their official duties and neglect in protecting the assets of the Government and initiate appropriate Departmental and Criminal action and also file a Status Report.□

11. The Courts have repeatedly held that the District Administration must be vigilant in respect of all such encroachments in water bodies and water resources and in Government poramboke lands. The encroachments in water bodies and water resources are to be viewed seriously and in the event of identifying any such encroachments, the authorities competent are duty bound to evict all such encroachments by following the procedures contemplated under the Tamil Nadu Land Encroachment Act,1905 or under Tamil Nadu Protection of Tank and Eviction of Encroachment Act, 2007, whichever is applicable. In this regard, the District Collector has to convene review meetings periodically and pass orders/instructions to all officials concerned to identify the encroachments made in water bodies and water resources and initiate all further steps to evict the encroachers by following the procedures contemplated. There cannot be any lapses in this regard and the same will cause disasters, more specifically, during flood season. Especially in Kancheepuram District, Thiruvallur District and Chennai District, people at large are facing flood related issues during the rainy season and the same results in disasters and loss of lives and property to the larger extent.

12. In such circumstances, the duty of the State is to ensure that the water bodies and the water resources are protected not only to prevent such disasters but also to provide clean water to the citizen at large, which is a constitutional mandate on the part of the State. Water is life and without water, there is no life. Water is an important one and there may not be any compromise on the part of the State to preserve the water bodies and water resources for the purpose of providing water to the citizen at large. Thus, it is mandatory on the part of the State to develop the water improvement schemes and other related schemes for the purpose of providing clean water to the citizen, which is a constitutional requirement.

13. Under these circumstances, wherever such encroachments are found in respect of water bodies

and water resources, the same are to be removed without any leniency or misplaced sympathy. The authorities are bound to act in accordance with law, without any lapse.

14. Accordingly, the following orders are passed:

(i) The order passed by the District Collector, Kancheepuram District in proceedings dated 25.03.2014, stands confirmed.

(ii) The District Collector, Kancheepuram District, is directed to convene the review meeting within a period of two weeks from the date of receipt of a copy of this order and issue orders/instructions to all the officials concerned to identify the encroachments in water bodies, water resources and Government Poramboke lands within his jurisdiction in Kancheepuram District.

(iii) The District Collector, Kancheepuram District, is directed to issue suitable orders/instructions to all officials concerned to initiate eviction proceedings and evict all those persons, who are all the encroachers, in respect of the water bodies and water resources by following the procedures contemplated under the Tamil Nadu Land Encroachment Act, 1905.

(iv) In the event of any violation on the part of the officials concerned, the District Collector is directed to initiate prosecution and disciplinary proceedings against all such officials for their lapses, negligence or dereliction of duties under the Tamil Nadu Discipline and Appeal Rules.

(v) The District Collector is directed to issue circulars to all the officials concerned to protect all such water bodies and water resources in the manner prescribed in law.

15. With these directions, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

05.10.2018

pns/sk

Internet:Yes/No

Index : Yes/No

Speaking/Non speaking order

1. The District Collector,
Kancheepuram District,
Kancheepuram.

2. The Revenue Divisional Officer,
Tambaram, Chennai - 600 045.

3. The Tasildhar,
Aalandur Taluk,
Chennai - 600 063.

S.M.SUBRAMANIAM, J.
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W.P.No. 30856 of 2014

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