

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.06.2018

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

and

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

WP.No.14630 of 2018

A.Ranganathan

...Petitioner

Vs.

1.District Collector,
Dharmapuri,
Dharmapuri District.

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

3.The Assistant Engineer,
Public Works Department,
Water Resources Department Irrigation Division,
Pennagaram, Dharmapuri District.

4.The Tahsildar,
Pennagaram Taluk,
Dharmapuri District.

...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the 1st respondent to consider the petitioner representation letter to the respondents dated on 29.05.2018.

For Petitioner : Mr.M.Senthamizh Selvan

For Respondents : Mr.R.Udhaya Kumar,
Additional Government Pleader

ORDER

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

By consent, the writ petition is taken up for final disposal. Mr.R.Udhaya Kumar, learned Additional Government Pleader accepts notice for respondents.

2. The petitioner claims to be the owner of the lands admeasuring to an extent of 14, 11.50 and 14 Acre in S.Nos.198/3 in 3A, 3E, 3G bearing Patta No.516 of Aragasanahalli Post, Pennagaram Talum, Dharmapuri District. According to him, he is in possession and enjoyment of the same. The petitioner would further aver that one Mr.N.Ganesan has filed WP.No.34014 of 2017, prayed for issuance of writ of mandamus directing the 1st respondent to consider and dispose of the representations as to the removal of encroachment in the river bed in S.Nos.178 and 185 of the said Village and it was disposed of on 24.01.2018, by directing the respondents 1 to 4, therein, to remove the encroachment within a period of 30 days from the date of receipt of copy of that order. Accordingly action has been taken

to remove the encroachment. The petitioner would further draw the attention of this Court to the materials placed before it and would submit that one Ms.G.Vijaya has filed WP.No.9422 of 2018, challenging the proceeding of the 3rd respondent dated 15.03.2018 in and by which, she was called upon to remove the encroachment, which was disposed of on 17.04.2018, by granting liberty to the petitioner therein, to submit her representation with further direction, directing the concerned respondents to consider and dispose of the same on merits and in accordance with law and till such time, the respondents were directed to defer further decision.

3. The learned counsel appearing for the petitioner would submit that in the case on hand, no notice, whatsoever, has been issued to the petitioner and without affording any opportunity to the petitioner to put forth his stand, steps are being taken to term the petitioner as an encroacher and further steps are being taken to remove the encroachments and in this regard, he submitted a representation dated 29.05.2018 to the 1st respondent with copies marked to the rest of the respondents and without considering the same, emergency steps are taken to dispossess him from the land in question. Hence prays for appropriate orders.

4. Mr.R.Udhaya Kumar, learned Additional Government Pleader appearing for the respondents would submit that apprehension expressed by the petitioner is wholly unfounded. Before removal of encroachment due process of law would be followed.

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

6. This Court taking into consideration the above facts and circumstances and without going into the merits of the claim projected by the petitioner either in his representation or in this writ petition directs the 3rd respondent to consider and dispose of the representation dated 29.05.2018 and pass appropriate orders on merits and in accordance with law within a period of six weeks from the date of receipt of copy of this order and communicate the decision taken to the petitioner. It is also made clear that till such time, the decision as to the removal of alleged encroachment on the part of the petitioner, shall be deferred. It is also made clear that till the disposal of the representation by the 3rd respondent, the petitioner shall not create any third party right in respect of the site and superstructure in question and shall not alter the physical features also.

7. With the above direction, the writ petition stands disposed of. No costs.

{M.S.N.J} {G.K.I.J}
18.06.2018

Index : No
Internet: Yes
Speaking Order

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To

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M.SATHYANARAYANAN, J.
AND
G.K.ILANTHIRAIYAN,J.
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