

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2018

CORAM :

THE HON'BLE MRS.V.K.TAHILRAMANI, CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P. No.17785 of 2018 and
W.M.P.Nos.21060, 36835 & 27346 of 2018

S.R.Rajarathinam

.. Petitioner

Vs.

1.The Special Commissioner and
Commissioner of Land Administration,
Chepauk, Chennai - 600 005.

2.The District Collector,
Cuddalore District,
Cuddalore.

3.The District Revenue Officer,
Cuddalore District, Cuddalore.

4.The Tahsildar,
Panruti Taluk, Panruti,
Cuddalore District.

5.C.Manikandan

6.Arul Jothi

7.Samikkannu

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of mandamus directing the respondents 2 to 4 to remove the encroachments made by the respondents 5 to 7 in S.No.42/1 (S.No.42) situated at Kilkankeyan Kuppan Village, Panruti Taluk, Cuddalore District and to restore the said land to its original position for the public purpose as per the order dated 18.12.2004 passed by the 1st respondent.

For Petitioners: Mr.M.R.Jothimanian

For Respondents: Mr.V.Jayaprakash Narayanan,
Government Pleader (i/c) (R1 to R4)

Mr.R.Neelakandan
for Mr.K.Srinivasan (R5 to R7)

O R D E R
(Order of the Court made by M.DURAISWAMY,J.)

The petitioner has filed the above Writ Petition to issue a Writ of mandamus directing the respondents 2 to 4 to remove the encroachments made by the respondents 5 to 7 in S.No.42/1 (S.No.42) situated at Kilkankeyan Kuppm Village, Panruti Taluk, Cuddalore District and to restore the said land to its original position for the public purpose as per the order dated 18.12.2004 passed by the 1st respondent.

2.The petitioner has filed the above Writ Petition as Public Interest Litigation. According to the petitioner, he is a resident of Kilkankeyan Kuppm Village, Panruti Taluk, Cuddalore District having agricultural land in the said village. Further according to the petitioner, the original land in Survey No.42 measuring an extent of 0.34.0 hectares situated in Kilkankeyan Kuppm Village was classified as "Tharisu" (Waste Land) and the same was used by the villagers. On 30.06.1998, the land has been assigned to one Hari Krishnan by the 4th respondent. Subsequently, the 3rd respondent cancelled the assignment dated 30.06.1998 and directed the revenue authorities to allow the villagers to use the said land for public purpose. Further, it is the case of the petitioner that the respondents 5 to 7 have encroached the public land and making construction in the name of Temple. Though the villagers requested the 4th respondent to take action against the respondents 5 to 7, no action has been taken by the official respondents. Further, the petitioner has stated that the respondents 5 to 7 have illegally entered into the land and making construction of buildings without any permission of the official respondents.

3.When the Writ Petition came up for hearing on 21.08.2018, the Division Bench of this Court observed that it is open to the respondents 2 to 4 to take necessary action in accordance with law to remove the encroachments made by the respondents 5 to 7 in Survey No.42/1 (Survey No.42) and to restore the said land to its original position for public purpose as per order dated 18.12.2004 passed by the 1st respondent.

4.In the counter filed by the 4th respondent, it has been stated that due to law and order problem and to avoid human loss, the eviction process was dropped on 14.09.2018 and it was averred that the encroachments will be removed and the public land will be restored.

5. Recording the averments stated in the counter of the 4th respondent, this Court, by order dated 08.11.2018, directed the 4th respondent to file a complete and comprehensive status report by 30.11.2018.

6. The 2nd respondent in his counter has stated that the total extent of land in Survey No.42/1 is 2.68 acres and the temple was constructed in ½ cent (12' x 12'). Further, the 2nd respondent has stated that three months time may be granted for implementing the orders of this Court.

7. The respondents 5 & 6 have filed a Miscellaneous Petition in W.M.P.No.36835 of 2018 to vacate the interim orders dated 21.08.2018 and 08.11.2018. In the affidavit filed in support of the petition, the respondents 5 & 6 have stated a different case contrary to the counter filed by them on 29.08.2018. In the counter affidavit dated 29.08.2018 filed by the respondents 5 to 7, they have specifically stated that they have no connection in the Writ Petition and that they never tried to encroach the lands in Survey No.42/1 and that they are unnecessary parties in the Writ Petition.

8. When they have stated that they have no connection in the matter, there is no necessity for filing an application to vacate the interim orders passed by the Division Bench of this Court. In these circumstances, on this sole ground alone the petition filed by the respondents 5 & 6 are liable to be rejected.

9. One D.Gnanasekaran has filed W.M.P.No.27346 of 2018 to implead himself as 8th respondent in the Writ Petition.

10. On a reading of the affidavit filed in support of the petition, it could be seen that the proposed party has not explained in what way he is connected with the present Writ Petition and that he is a proper and necessary party.

11. Since the proposed party has not established that he is a proper and necessary party for proper adjudication of the matter, the impleading petition cannot be entertained.

12. Now the official respondents are only seeking twelve weeks time to implement the order dated 18.12.2004 passed by the 1st respondent.

13. In view of the submissions made by the learned Government Pleader (i/c), we grant twelve weeks time to the respondents 2 to 4 to remove the encroachments made by the respondents 5 to 7 in Survey No.42/1 (Survey No.42) situated at Kilkankeyan Kuppan Village, Panruti Taluk, Cuddalore District.

14.With these observations, the Writ Petition is disposed of. No costs. W.M.P.Nos.36835 and 27346 of 2018 are dismissed. W.M.P.No.21060 of 2018 is closed.

-s/d-
Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

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To

- 1.The Special Commissioner and
Commissioner of Land Administration,
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 - 2.The District Collector,
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Cuddalore.
 - 3.The District Revenue Officer,
Cuddalore District, Cuddalore.
 - 4.The Tahsildar,
Panruti Taluk, Panruti,
Cuddalore District.
- +1 CC to Mr.M.R.Jothimanian, Advocate sr 82470

W.P. No.17785 of 2018 and
W.M.P.Nos.21060, 36835 & 27346 of 2018

SPD(CO)
SP(18/12/2018)

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