

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 31-10-2018

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.1904 of 2014

And

M.P.No.1 of 2014 and 1 of 2015

V.P.Thiyagarajadurai

.. Petitioner

..Vs..

1.The Tahsildar,
Coimbatore South Taluk,
Coimbatore.

2.Shri Varadharaja Perumal Thirukkoil
Thiruppani Committee, Represented
by its President, Mr.P.Balasubramanian,
Vellalore,
Coimbatore-641 111.

(R-2 impleaded vide order order of Court
dated 31.10.2018 made in MP No.2 of 2014 in
WP 1904 of 2014)

3.Sri Karivaradaraja Perumal Thirukoil
Thirupanikuzhu Represented by its President,
P.Balasubramanian,
1-A Subbia Gounder Street,
Vellalore,
Coimbatore-641 111.

4.A.Gopalakrishnan

5.Pattakkara Arusamy

6.Kannan

7.K.Murugesan

8.Kumaran @ Kumar

9.V.Senthil Kumar

10.K.Radhakrishnan

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11.R.Kanagaraj

12.T.Sethurama Subbiah @ Sethu

(R-3 to R-12 impleaded as per order
of Court dated 31.10.2018 made in
WMP No.24855 of 2017 in WP 1904 of
2014)

.. Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India for the issuance of a Writ of Mandamus, forbearing the respondent, his subordinates or anybody acting through him from in any manner interfering with the petitioner's right in enjoyment of the land in S.No.764/7 measuring an extent of 0.14.5 Hectares (36 cents) of Vellalur Village, Coimbatore South Taluk, except by due process of law.

For Petitioner : Mr.S.Sudharsan
For Respondent-1 : Mr.A.Ansar,
Government Advocate.
For Respondent-2 : Mr.A.E.Ravichandran
For Respondents-3to12 : Mr.R.Bharath Kumar

O R D E R

The relief sought for in this writ petition is forbearing the respondent, his subordinates or anybody acting through him from in any manner interfering with the petitioner's right in enjoyment of the land in S.No.764/7 measuring an extent of 0.14.5 Hectares (36 cents) of Vellalur Village, Coimbatore South Taluk, except by due process of law.

2. The land described in the present writ petition is already covered under the Report of the Tahsildar, Madhukkarai, Coimbatore District in WP No.6193 of 2014. In respect of all the lands cited in the Report of the Tahsildar, they were adjudicated and a detailed judgment was passed in WP No.6193 of 2014 dated 8.10.2018. The land in question is also covered under the abovesaid judgment in paragraph-23 of the judgment. Thus, the present writ petition is disposed of with reference to the orders passed in WP No.6193 of 2014 dated 8.10.2018 and the relevant paragraphs 23, 24, 25, 26, 27, 28, 29, 30, 31 and 32 are extracted hereunder:-

"23.The learned Special Government Pleader
with reference to the report filed by the Tahsildar,

Madukkarai Taluk, Coimbatore District contended that the writ petitioner is an encroacher and he is attempting to influence the authorities and other persons with the assistance of his Uncle, who is a retired I.A.S., officer. In such circumstances, this Court has to permit the revenue officials to remove all such encroachments and utilize the land for public purposes. The report submitted by the Tahsildar, Madukkarai Taluk, Coimbatore District is extracted hereunder:

"I am working as Tahsildar, Madukkarai and as such I am acquainted fully with the facts of the case. Pursuant to the orders issued by the Honourable High Court, Chennai in W.P.No.6193 of 2014 and M.P.No.1 of 2014 on 17.09.2018, the Poramboke lands in and around the lands held by the Writ petitioner Thiru.V.P.Jayakumar was surveyed on 25.9.2018 with the assistance of Assistant Director of Survey and Land Records, Coimbatore.

During the survey Writ Petitioner Thiru.V.P.Jayakumar and respondent 4 were also Present. The following is the status of lands as per ground

S.N o.	Survey No	Extent (in acres)	Whether encroached or not	Extent of encroachment (in acres)	Nature of encroachment
1	764/5	0.42	Encroached by Writ Petitioners	0.42	The land is maintained as tharisu and thorny bushes are there. One coconut tree is there
2	764/7	0.36	Encroached by Writ Petitioner	0.36	The land is maintained as tharisu and thorny bushes are there. One coconut tree, five arecanut trees and one seedling of coconut tree are there

3	764/1 1	0.57	Encroached by the writ petitioner Partially	0.48	Nearly 9 cents are used by public as pathway and rest of the land 48 cents are under the possession of the Writ Petitioner. There are Throny bushes
4	764/2	0.02 ½	Encroached by the Writ Petitioner	0.02 ½	Being used as pathway. Throny bushes are there
5	764/1 3	0.05	Encroached by the Writ Petitioner	0.05	Being used as path way. Throny bushes are there

24.The encroachments marked in the sketch also categorically establishes that the Government lands are under encroachment.

25.The sketch produced by the Tahsildar clarifies that the Government lands are classified as 'Tharisu', 'Poramboke' and 'Pathway' are also under encroachment. This being the field report submitted by the Tahsildar, this Court has no hesitation in coming to the conclusion, that the persons, who have encroached the Government land are certainly liable to be evicted under the provisions of the Tamil Nadu Land Encroachment Act, 1905. Encroachment is however menace and few greedy men are encroaching the Government land for the purpose of their personal gains and for unlawful enrichment. Such greedy men are adopting all illegal methods to protect such encroachment in an illegal manner. The encroachments of Government land in our State are considerably increasing on account of the mounting of the land cost. As the land cost increases, the encroachments are

also increasing. There is no end for greediness. However, such greedy men, who have encroached the Government lands are to be dealt in accordance with law and there cannot be any leniency or misplaced sympathy in this regard.

26. The Government lands are meant for the public usage. Government lands or water bodies are to be protected in the interests of public. It is duty mandatory on the part of the State to protect the Government lands for the purpose of implementing the welfare schemes. Protection of the Government lands, water bodies and water resources are the constitutional mandates and the State is bound to implement the same. Thus, the State authorities must be held responsible for all such encroachments and the authorities must be personally made liable and accountable in the event of allowing such encroachments and not initiating steps to evict such encroachments.

27. This Court is able to visualize that a Tahsildar or his subordinates or the higher officials in the District Administration are very well aware of all such encroachments. Day-in and Day-out, such field officers are passing through all such encroachments in Government land and water bodies. The local Village Administrative Officers and other revenue officials are very much aware of all these encroachments. In spite of their clear knowledge about such encroachments, why actions are not taken under the law, is the important question to be raised by all concerned in the interests of public. The reasons can be many, possibly such Government lands are shown by these revenue officials to some greedy men, who are capable of satisfying the needs of such Government officials. Such encroachments are permitted by the revenue officials on account of corruption.

28. The encroachments are permitted by such local officials on certain political influences and at the influence of some higher officials.

29. This Court is of an opinion that a

common man, in all circumstances may not know, what all are the lands, classified as Poramboke lands, water bodies, water resources in the revenue records. Thus, the revenue details are made available in the office of the District Administration and Taluk Offices. Thus, without the assistance of some officials or the subordinates working in the District Administration or Taluk Offices, it may not be possible for such greedy men to encroach with confidence. Such encroachments are done and the people are continuing the encroachment with full confidence that nobody can touch them. Who gave such a strength to these encroachers, who all are none other than the offenders. Encroachers being offenders when not dealt in accordance with law, is detrimental to the public as well as the public administration.

30. Under these circumstances, this Court is of a considered opinion that all these officials of the District Administration must not only be held responsible, but also to be made accountable in respect of encroachments of Government lands, water bodies and water resources. The inaction of the District Administration, inefficiency of the officials lead to large scale of encroachments in the State. Thus, the Constitutional Courts are bound to take note of the seriousness and deal with such cases, so as to ensure the rule of law in the State by protecting all such Government lands, water bodies and water resources.

31. It is established before this Court that the writ petitioner is an encroacher. When it is established before this Court that the writ petitioner is an encroacher, then there is no point in sending the matter back once again to the revenue officials. The order passed by the Revenue Divisional Officer dated 04.12.2013, elaborately states that the land in question are classified as "Tharisu", "Pathway", and "Government Poramboke land".

32. This being the factum of the case, this Court is inclined to pass the following orders:

(i) The impugned order passed by the 1st respondent in proceedings dated 21.01.2014 stands confirmed.

(ii) The respondents 1 to 3 are directed to evict the writ petitioner from the Government lands within a period of four weeks from the date of receipt of a copy of this order.

(iii) The Commissioner of Police, Coimbatore, is directed to provide Police Protection for the eviction of the writ petitioner from the Government lands.

(iv) The 1st respondent is directed to conduct an enquiry in respect of the lapses on the part of the revenue officials in protecting the Government lands, water bodies and water resources and initiate appropriate action, if any negligence or dereliction of duty is found.

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

3. This apart, the writ petitioner in WP No.6193 of 2014 Mr.V.P.Jayakumar is none other than the brother of the present writ petitioner Mr.V.P.Thiyagarajadurai in WP No.1904 of 2014. Thus, the issues are identical and the properties are already covered under the Report submitted by the Tahsildar.

4. The learned Government Advocate, appearing on behalf of the respondent, brought to the notice of this Court that the order dated 8.10.2018 passed in WP No.6193 of 2014 had been implemented by the Competent Authorities. Accordingly, all the encroachments are removed and possession has been taken over by the Government Authorities.

5. This being the factum of the case, no further consideration is required in respect of the grounds raised in the present writ petition.

6. Accordingly, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

Svn

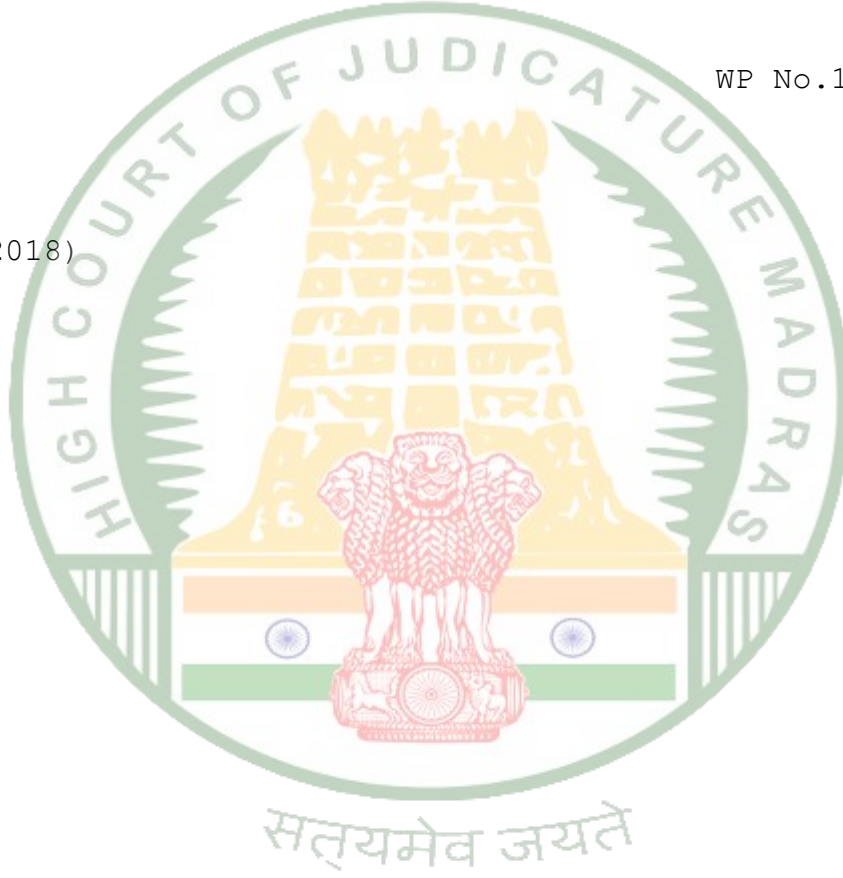
To

The Tahsildar,
Coimbatore South Taluk,
Coimbatore.

+1cc to Mr. R.Bharath Kumar, Advocate, S.R.No. 75398
+1cc to Mr. N.Damodaran, Advocate, S.R.No. 74804
+1cc to Mr. R.Rajesh Vivekananthan, Advocate, S.R.No. 74792
+1cc to the Government Pleader, S.R.No.75337

WP No.1904 of 2014

VGII(CO)
GN(22/11/2018)



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