

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Monday, the Twenty Ninth day of January Two Thousand Eighteen

PRESENT

THE HON`BLE MR JUSTICE M.VENUGOPAL

AND

THE HON`BLE MR JUSTICE S.VAIDYANATHAN

WP NO.1753 OF 2018

MUVENDAN

[PETITIONER]

Vs

1 STATE REP.BY ITS
THE DISTRICT COLLECTOR,
VILLUPURAM DISTRICT

[RESPONDENTS]

2 THE SUB COLLECTOR,
SUB COLLECTOR OFFICE,
JAKKAMPETTAI,
TINDIVANAM.

3 THE TAHSILDAR,
TINDIVANAM.

4 THE VILLAGE ADMINISTRATIVE
OFFICER, VEEDUR VILLAGE,
TINDIVANAM TALUK,
VILLUPURAM DISTRICT.

5 PERIYASAMY

Writ Petitions under Article 226 of the Constitution of India praying that in these circumstances stated therein and in the respective affidavits filed therewith the High Court will be pleased to

issue an order, direction, writ more particularly a writ in the nature of WRIT OF MANDAMUS directing the 1st to 4th respondents to remove the demolished building wastage in S. No. 300/2C and S. No. 300/2D, Vedoor Village, Tindivanam Taluk for usage of passage for petitioners land in S.No.300/2B (in WP.No.1753/18)

Order : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.G.MOHAMMED ASEEF Advocate for the petitioner and of MR.A.N.THAMBIDURAI Special Government Pleader on behalf of the 1 to 5 respondents the court made the following order:-

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

Heard the Learned Counsel for the Petitioner and Mr.A.N.Thambidurai, Learned Special Government Pleader takes notice for Respondents 1 to 4.

2.In respect of the 5th Respondent, notice is ordered, through Court and post, returnable by 20.02.2018.

3.According to the Petitioner, his grandfather viz., Erusan and his brother applied for patta before the Tahsildar, Nathan Special Scheme and accordingly, patta was allotted to his grandfather and his brother in S.No.300/2B measuring to an extent of 00.96 sq. mt. on 26.12.1995 and assu patta No.850. According to the Petitioner, his grandfather and his brother died intestate leaving behind his father Pandurangan as only legal heir and the Petitioner and his father are living as family in the aforestated land.

4.The stand of the Petitioner is that for the patta land passage situated in S.No.300/2C and S.No.300/2D and there was no other passage for his land except the one as stated supra and that the 5th Respondent had encroached the S.No.300/2D and because of that there is no other passage available to his land. In regard to the aspect of encroachment committed by the 5th Respondent, the Petitioner gave numerous representations and also filed a Civil Suit in O.S.No.185 of 2015 on the file of the Learned Principal District Munsif, Tindivanam seeking mandatory injunction of demolition of the 5th Respondent's violation.

5.As a matter of fact, on 14.07.2015 a survey was conducted by the 3rd Respondent/Tahsildar, Tindivanam and on 22.08.2015, he came along Police officials, Revenue Inspector, VAO, Surveyors and took action against the encroachment in S.No.300/2D which was encroached by the 5th Respondent and S.No.300/2C where the Petitioner's building portico situated, which was also demolished on the same day. But, the demolished materials were not cleared and till this date, it was placed only there and the suit has become an infructuous one.

6.The Learned Counsel for the Petitioner contends that the Petitioner had addressed a representation for removal of demolished building material and remaining encroachment. But again the 5th Respondent had encroached the S.No.300/2D and demolished material were placed in the same place, leaving the Petitioner no space for his land. Based on the Petitioner's representation, the Commissioner Land Administration has forwarded the said

representation through proceeding in Na.Ka.te3/4810/2017 dated 28.03.2017 and again the 2nd Respondent sent a memorandum on 19.10.2017 to take action for removal of demolished material and usage of passage in S.No.300/2C, 300/2D. In spite of the above, no action has been initiated by the authorities concerned.

7.The Learned Counsel for the Petitioner points out that although Respondents 1 to 3 had removed the encroachment, they had not cleared the demolished material and cleared the passage in S.No.300/2C and S.No.300/2D and therefore, the Petitioner is not in a position to use his land and building without clearing the passage and whenever the Petitioner take steps for clearing the demolished material, the 5th Respondent is creating a problem and unwanted issue. Therefore, the Petitioner has filed the present Writ Petition seeking for passing of an order by this Court in directing the Respondents 1 to 4 to remove the demolished building wastage in S.No.300/2C and S.No.300/2D, Vedoor Village, Tindivanam Taluk for use of passage of Petitioner's land in S.No.300/2B.

8.At this juncture, the Learned Special Government Pleader for Respondents 1 to 4 informs this Court that within a period of two weeks from today, the Respondents 3 and 4 will remove the demolished material from the S.Nos.300/2C and 300/2D, Vedoor Village, Tindivanam Taluk for usage of passage of Petitioner's land in S.No.300/2B and the authorities concerned will submit a Report of Compliance before this Court.

9.Considering the fact that on behalf of Respondents 3 and 4, it is represented before this Court that Respondents 3 and 4 will remove the building wastage materials in S.Ns.300/2C and 300/2D Vedoor Village, Tindivanam Taluk for usage of passage of Petitioner's land in S.No.300/2B within a period of two weeks from today, this Court, in the interest of Justice, Fair Play, Equity, Good Conscience and even as a matter of prudence, directs the Respondents 3 and 4 to remove the demolished building wastage in S.Nos.300/2C and 300/2D, Vedoor Village, Tindivanam Taluk for usage of passage of Petitioner's land in S.No.300/2B, in the presence of the Petitioner and the 5th Respondent within a period of two weeks from today. After clearing the demolished building wastage materials in S.Nos.300/2C and 300/2D, Vedoor Village, Tindivanam Taluk for usage of passage of Petitioner's land in S.No.300/2B, the Respondents 3 and 4 are directed to submit a Compliance Report before this Court on **20.02.2018** without fail.

10.The Notice Section of the Office of the Registry is directed to issue notice to the 5th Respondent on or before 01.02.2018.

11.The Registry is directed to list this matter on **20.02.2018**
'For Reporting Compliance'.

-sd/-
29/01/2018
/ TRUE COPY /

Sub-Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE DISTRICT COLLECTOR,
VILLUPURAM DISTRICT

2 THE SUB COLLECTOR,
SUB COLLECTOR OFFICE, JAKKAMPETTAI,
TINDIVANAM

3 THE TAHSILDAR,
TINDIVANAM.

4 THE VILLAGE ADMINISTRATIVE
OFFICER, VEEDUR VILLAGE,
TINDIVANAM TALUK,
VILLUPURAM DISTRICT.

5 THE SECTION OFFICER,
NOTICE SECTION, HIGH COURT, CHENNAI.

C.C. to M/S.G.MOHAMMED ASEEF Advocate on payment of necessary
charges

The Government Advocate, High Court, Madras - 104.

Order

in
WP.1753/2018

Date :29/01/2018

From 26.2.2001 the Registry is issuing certified
copies of the Interim Orders in this format
SDR 30.01.2018 (IT)