

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.VENUGOPAL
AND
THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

W.P.No.21333 of 2017

M.Ramalingam ... Petitioner in person

Vs.

1. The Principal Secretary to Government,
Revenue Department,
Fort Saint George,
Chennai-600 009.
2. The District Collector,
Collectorate, Villupuram District,
Villupuram.
3. The Tahsildar,
Chinnasalem 606 201,
Villupuram District. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the respondents to take suitable action in removing the encroachment made in Survey No.142, Thagam Theerthapuram Village, Chinnasalem Taluk, Villupuram District as per the orders of the Government and in accordance with the records of the Revenue Department and based on the petitioner's representation dated 01.10.2016 and 23.11.2016 in the light of G.O.(Ms).No.540, Revenue (LD 6(2)) Department, dated 04.12.2014 within a stipulated time and deemed fit and proper.

For petitioner : Mr.K.M.Mohammed Rafi
for Mr.N.A.Nissar Ahmed

For Party in Person : Mr.S.N.Parthasarathy,
Govt. Advocate

ORDER

(The Order of the Court was made by M.Venugopal, J)

Heard both sides.

2. The petitioner has filed the above Writ Petition praying for issuance of a Writ of Mandamus to direct the respondents to take suitable action in removing the encroachment made in Survey No.142, Thagam Theerthapuram Village, Chinnasalem Taluk, Villupuram District, as per the orders of the Government and in accordance with the records of the Revenue Department and based on the petitioner's representation dated 01.10.2016 and 23.11.2016 in the light of G.O.(Ms).No.540, Revenue (LD 6(2)) Department, dated 04.12.2014 within a stipulated time and deemed fit and proper.

3. According to the petitioner, he is a social worker following the great ideals of securing social justice, equality, economic independence and such other justice to the downtrodden and weaker sections of the society and the general public as enshrined under the Constitution of India. Hence, he has filed the present Public Interest Litigation on his behalf as well as on behalf of enlightened people in general and the poor agriculturalists in and around Thagam Theerthapuram Village in particular.

4. It comes to be known that Survey Nos.142/13, 142/14, 142/15, 142/16, 142/17, 142/18, 142/19, 142/6, 142/7, 142/8, 142/9, 142/10, 142/11 and 142/12 in Thagam Theerthapuram Village, Chinnasalem Taluk, Villupuram District, belong to Government, and they are classified as 'Poramboke Pathai Tharisu' and are encroached by persons. In fact, the aforesaid Survey Numbers are only meant for road purpose. The aforesaid lands were encroached by unauthorised persons and they had built concrete houses. The petitioner has submitted a petition on 01.10.2016 before the Second Respondent/District Collector, Villupuram District and the Third Respondent/Tahsildar, Chinnasalem, Villupuram District. However, no action has been taken on his petition. Hence, the petitioner sent another petition on 23.11.2016 to the respondents requesting them to take appropriate action to remove the encroachment which are on the Main Road (Highways) of Vasudevaur to Salem, Chennai. Because of the said encroachment in S.No.142, the school going children and general public are made to suffer.

5. The Learned Counsel for the Petitioner submits that on 01.12.2016 in Memo No.42/7118/2016, the Revenue Divisional Officer, Kallakurichi had addressed a communication to the Third Respondent/Tahsildar, Chinnasalem, directing him to survey the lands encroached by unauthorised persons and to make an enquiry

regarding encroachments and to take suitable action. In spite of the same, no action was taken by the Third Respondent. Hence, the petitioner had preferred an Application on 04.05.2017 to the Assistant Director, Central Survey Office, Chepauk, Chennai-5, which was forwarded to the Third Respondent/Tahsildar, Chinnasalem for taking appropriate action. However, no action was taken by the Third Respondent. Hence, the petitioner has filed the present Writ Petition for the relief stated supra.

6. Conversely, it is the submission of the Learned Government Advocate appearing for the Respondents that house-sites were given in respect of Survey Nos.142/6 to 142/19 by way of assignment in the year 1996 and for the said sites, Pattas were also issued by the concerned authority, and as such, the petitioner has furnished a wrong information in his Writ Affidavit, and therefore, the Learned Government Advocate prays for dismissal of the Writ Petition.

7. Be that as it may. In view of the categorical stand taken on behalf of the Respondents that there are no encroachments in the Village Survey Numbers beginning from 142/6 to 142/19 and that nearly 14 persons were handed over the sites by means of assignment in the year 1996 and they were also issued with Pattas and that there are no encroachments, this Court comes to an irresistible conclusion that the petitioner is not entitled to seek the relief of Mandamus as claimed by him in the present Writ Petition. Viewed in that perspective, the present Writ Petition sans merit.

8. In fine, the Writ petition is dismissed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

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Revenue Department,
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Chennai-600 009.
2. The District Collector,
Collectorate, Villupuram District,
Villupuram.

3. The Tahsildar,
Chinnasalem 606 201,
Villupuram District.

+1 cc to Mr.N.A.Nissar Ahmed, Advocate Sr.No.81827

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SR(CO)
CSL/19.12.2018



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