



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI

REV.APLW.[MD]No.70 of 2018
in
W.P.[MD]No.24619 of 2016
and
W.M.P.[MD]No.22248 of 2018

1.The District Collector,
Tirunelveli District.

2.The Tahsildar,
Manur Taluk,
Tirunelveli District.

: Petitioners/Respondents

Vs.

Kalirajan

: Respondent/Writ Petitioner

PRAYER: Review Application filed under Order XLVII Rule 1 r/w. Section 114 of the Civil Procedure Code, praying to review the order passed in W.P.[MD]No.24619 of 2016 dated 22.12.2016.

Prayer in WP(MD). 24619/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus directing the respondents to remove the encroachments made in the survey number 483/1 and 484/15 North Chelianallur Village, Tirunelveli Taluk within stipulated time.

For Petitioners : Mr.A.K.Baskara Pandian
Special Government Pleader

For Respondent : Mr.S.M.Mohan Gandhi



O R D E R

[Order of the Court was made by **T.S.SIVAGNANAM, J.**]

Heard Mr.A.K.Baskara Pandian, learned Special Government Pleader, appearing for the petitioners and Mr.S.M.Mohan Gandhi, learned Counsel appearing for the respondent.

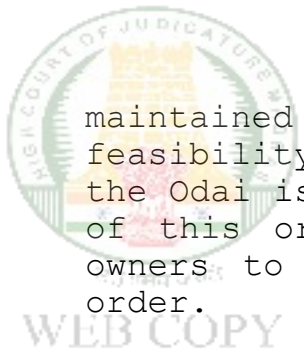
2.This review petition has been filed to review the order and direction in W.P.[MD]No.24619 of 2016 dated 22.12.2016. By the said order, the writ petition filed by the respondent herein was allowed and direction was issued to the review petitioners to remove the encroachments made in Survey Nos.483/1 and 484/15, North Chelianallur Village, Tirunelveli.

3.Admittedly, the land in question has been classified in the revenue records as Odai poramboke. It appears that the Court was not informed that there are several Government buildings put up in a portion of the said land. The Division Bench taking note of the report of the Deputy Tahsildar, who informed that both the survey numbers are classified as Odai Poramboke, directed removal of the encroachments. Because the order has not been complied with, the respondent has filed CONT.P[MD]No.147 of 2018, which is also tagged along with this review petition.

4.The learned Special Government Pleader has produced photographs before us which shows that there are several Government buildings which have been constructed in part of Survey No.483/1, namely, office of the Village Administrative Officer, Post office, Municipality office, general library and six houses constructed by encroachers. In respect of Survey No.484/15, there are two houses which have been constructed by the encroachers.

5.Considering these facts, we are of the view that it will be inequitable to direct demolition of the Government buildings. It is no doubt true that the Government, before construction should have taken care not to put up construction in a water body or a Odai Poramboke, as there is a clear prohibition from doing so. We are informed by the learned Special Government Pleader that already action has been initiated for removal of the houses which have been constructed by encroaching Odai Poramboke and those encroachers have approached this Court and filed writ petitions and the writ petitions are pending.

6.Considering these facts, we partly allow this Review Petition and modify the order passed in the Writ Petition by directing that the Government buildings need not be demolished but the petitioners shall ensure that the remaining portion of the Odai is restored to its original condition. Apart from that, remaining extent of land in Survey No.483/1, shall also be restored and



maintained as a Odai and the petitioner shall examine the feasibility of acquiring lands in the vicinity so that the width of the Odai is maintained uniformly. We make it clear that the benefit of this order can in no manner advance the case of the private owners to put up houses and they cannot take advantage of this order.

7.With the above observations, the Review Petition is disposed of. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

Sub Assistant Registrar(CS)

MR

To

1.The District Collector,
Tirunelveli District.

2.The Tahsildar,
Manur Taluk,
Tirunelveli District.

+1cc to Mr.S.M.Mohan Gandhi,Advocate, SR.No.92276

ORDER MADE IN
REV.APLW. [MD]No.70 of 2018
16.10.2019

JMN (05.12.2019) 3P : 4C