



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

and

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P(MD)No.11 of 2018

and

W.M.P(MD)No.9 of 2018

Kandasamy

.. Petitioner

Vs.

1.The District Collector,
Office of the District Collector,
Virudhunagar District.

2.The Thasildhar,
Kariyapatti Taluk,
Virudhunagar District.

3.The Revenue Inspector,
Kariyapatti Taluk,
Virudhunagar District.

4.Mahalingam

5.Seeman @ Gurusamy

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the records relating to the Impugned Notice issued by the 3rd Respondent dated 20.12.2017, as per Section 7 of Tamil Nadu Land Encroachment Act, 1905 against the petitioner's house property in front portion, attached in temporary small Cement Trough (Drinking water is used by the petitioner's cow) in Survey No.17/12 on the file of the Vetrilaimuriyanpatti, Chatrapulliyankulam Post, Kariyapatti Taluk, Virudhunagar District and quash the same.

For Petitioner

: Mr.R.Udhayakumar

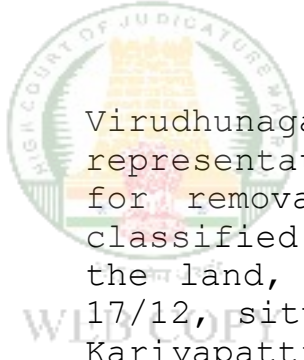
For Respondents 1 to 3

: Mr.D.Muruganantham,
Additional Government Pleader.

ORDER

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

The petitioner, alleging encroachment and construction of
earlier occasion, filed W.P(MD)No.22675 of 2017, praying for
issuance of writ of mandamus, directing the District Collector,



Virudhunagar District, to consider and dispose of his representation, dated 21.11.2017, within a stipulated time frame, for removal of the encroachment in Government poramboke land, classified as "vacant site" in Survey Nos.17/2 and 17/3 as well as the land, classified as "pathway" in Survey Nos.17/6, 17/10 and 17/12, situated at Vetrilaimuriyanpatti, Chatrapulliyankulam Post, Kariyapatti Taluk, Virudhunagar District and the said writ petition was entertained and vide, interim order, dated 12.12.2017, this Court directed the officials respondents 1 and 2, to file a status report.

2.The petitioner came forward to file the present writ petition, challenging the notice issued under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 [Tamil Nadu Act 3 of 1905], on the ground that under the guise of survey and measurement, the petitioner alone has been targeted for the reason that he has filed W.P(MD)No.22675 of 2017 for removal of encroachment, on the part of the respondents 4 and 5.

3.The learned counsel appearing for the petitioner would submit that the second respondent with an oblique malafide has targeted the petitioner alone and issued the impugned notice and since due process of law was not followed, the petitioner is constrained to approach this Court, by filing this writ petition.

4.This Court, on going through the materials placed, has put a specific question to the learned counsel appearing for the petitioner, as to how the petitioner is claiming right over the superstructure put up by him and according to the learned counsel appearing for the petitioner, only at the time of inspection and survey, he came to know of the fact of alleged encroachment on his part. However, a perusal of the affidavit filed in support of the writ petition, does not disclose the said fact.

5.The petitioner, who approaches the Court, alleging encroachment, must specifically plead that he is not an encroacher or at least he is an encroacher and is acting in public interest for removal of encroachment. Unfortunately, the petitioner did not resort such a method.

6.This Court is also of the view that writ petitions are being filed for removal of encroachment and also for demolition of unauthorised construction, without specifically stating in the affidavit filed in support of the writ petition that they have not encroached on the public lane or land or property and that they have not put up any unauthorised construction. This Court also finds no photographs as to the unauthorised construction or encroachment, had also been filed.

7.The petitioner has failed to approach this Court with clean hands as has not stated the fact that he is also an encroacher.



8. It is well-settled position of law that the petitioner, who fails to approach the Court with clean hands, is not entitled to get any indulgence or equity from the Court. Therefore, this writ petition is dismissed. Consequently, connected Miscellaneous Petition is dismissed. No costs.

9. The Registry is directed to ensure that the writ petitions filed for removal of encroachments/demolition of unauthorised constructions, the concerned petitioner should aver that he is not an encroacher/he has not put up any unauthorised construction and in support of the averments, shall also file photographs.

10. This Court has also come across in Public Interest Litigations filed by concerned individuals and it is also brought to the knowledge that fictitious persons also filing Public Interest Litigations. In future, the persons, who are filing Public Interest Litigations, in the typed-set of documents, shall file a copy of the Aadhaar Card and in the event of non-applying for Aadhaar Card, shall file Ration/Family Card or Voter's Identity Card for the purpose of identification of that person.

11. The Registry is directed to communicate this order to the Additional Registrar General as well as Registrar (Judicial), Madurai Bench.

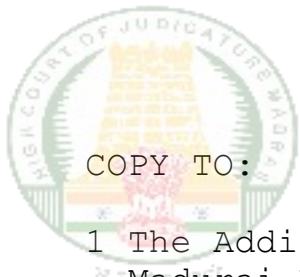
Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Office of the District Collector,
Virdhunagar District.
2. The Thasildhar,
Kariyapatti Taluk,
Virdhunagar District.
3. The Revenue Inspector,
Kariyapatti Taluk,
Virdhunagar District.



COPY TO:

1 The Additional Registrar General,
Madurai Bench of Madras High Court, Madurai.

2 The Registrar (Judicial),
Madurai Bench of Madras High Court, Madurai.

+1cc to Special Government Pleader, SR.No. 40132

+1cc to M/S.R.Udhayakumar, Advocate SR.No. 40207

ORDER MADE IN
W.P (MD) No.11 of 2018
and
W.M.P (MD) No.9 of 2018
03.01.2018

smn

JM/SKN RSK/SAR 1/09.01.2018/4P/8C