



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.02.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P (MD) No.2653 of 2018

R.Irudhayaraj

.. Petitioner

Vs.

1. The District Collector,
Virudhunagar District.
2. The Tahsildar,
Sivakasi Taluk,
Sivakasi, Virudhunagar District.
3. The Block Development Officer,
Sivakasi Panchayat Union,
Sivakasi.
4. Subramanian
5. Meenappan
6. Kaliyappa Nadar
7. Pitchaimmal
8. Chinna Pitchaimmal
9. Ramasamy Naicker
10. Radhakrishnan
11. Rasu

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to remove the encroachment made in the Odai situated in S.No.790A and 790B in Keela Thiruthangal Village, Sivakasi Panchayat Union, Sivakasi Taluk, Virudhunagar District made by the respondents 4 to 11.

For Petitioner	: Mr.K.Samidurai
For Respondents	: Mr.C.M.Marichelliah Prabu Additional Government Pleader for R1 to R3

ORDER

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



2. Mr.C.M.Marichelliah Prabu, learned Additional Government Pleader accepts notice on behalf of respondents 1 to 3.

3. The petitioner claims to be the President of Consumer Public Protection Council with registration No.46/2011 of Virudhunagar. The writ petition was listed for admission on 09.02.2018 and on seeing the letter head, especially the word "PROTECTION" and yet another word "அரசு அங்கீகாரம் பெற்றது", this Court directed the petitioner to produce the recognition accorded by the Government to the said Council and the learned Counsel appearing for the petitioner sought adjournment.

4. The matter is listed today and Mr.K.Samidurai, learned counsel appearing for the petitioner has filed the additional affidavit, dated 14.02.2018 and it is relevant to extract paragraph No.2 of the same, which is as follows:

"2.I respectfully submit that I have submitted to register the "Consumer Public Protection Council" under the Tamil Nadu Societies Registration Rules, 1978 and the same was registered on 10.02.2011 by the District Registrar, Virudhunagar. It is pertinent to mention here in the letter pad initially here is no such words" (Recognized by Government). It is pertinent to mention here that it is only a registered one and Government has not granted any recognition. But unfortunately at the time of printing new letter pad in the year 2015 such words i.e., Recognized by the Government was added instead of "Registered Body". It is an inadvertent mistake and for the past 6 years no allegation against me by anybody that I misused them by using this Council. I have been helping the people and I am getting salary from the Church by working there as a pastor. I have not misused the letter pad for any personal gain. I am ready to remove that words "Recognized by the Government" form my letter pad and I will not use that words in my letter pad in future also. It is not added in the letter pad intentionally and it is only an inadvertent mistake".

5. The said affidavit would disclose that the said Council is not actually recognised by the Government and according to the petitioner instead of printing as "Recognised body", it has been wrongly printed as "Recognised by the Government" and that apart the petitioner is also a Pastor by getting salary from the Church and the said fact has also not been disclosed.

6. The learned Counsel appearing for the petitioner has tendered unconditional apology and would state that the said mistake is purely an inadvertent and since the present writ petition is filed purely as "public interest litigation", it may be condoned and the same kind of steps will not be taken in future.



7. The said submission, on instructions, is placed on record.

8. The present writ petition is styled as Public Interest Litigation and when the petitioner would state that in Keela Thiruthangal Village, a water course is existing in Survey Nos. 790A and 790B and the private respondents had encroached upon the same and preventing the free flow of water and as a consequence, the agriculturists as well as the residents of the locality put to grave hardship and lot of inconvenience and despite very many efforts made by him to persuade the authority to remove the encroachment and it is not done and in this regard, he has also submitted a representation dated 17.07.2015 and taking cognizance of the same, the Assistant Executive Engineer, Water Resource Organisation, Vaiparu Basin, Virudhunagar has sent a communication dated 27.10.2015 in letter No. Va.4/163/Ko.252 to the third respondent to take appropriate action and do the needful and despite the said direction, the third respondent is yet to take any kind of action. Therefore, the petitioner is constrained to approach this Court by filing this Writ Petition.

9. Per contra, Mr. C.M. Marichelliah Prabu, learned Additional Government Pleader appearing for the respondents 1 to 3 would submit that the inspection of the said survey number would be carried out and after putting the concerned persons on notice and action will be taken depending upon the result of the same.

10. This Court has carefully considered the rival submissions and perused the materials placed on record.

11. Though the petitioner prays for a larger relief, this Court, taking into consideration the facts and circumstances of the case and without going into the merits of the claim projected by the petitioner either in his representation or in this Writ Petition, directs the respondents 2 and 3 to cause inspection of the land in Survey Nos. 790A and 790B in Keela Thiruthangal Village, Sivakasi Taluk, Virudhunagar District, after putting the private respondents and other encroachers on notice and depending upon the result of the survey, shall take appropriate action to remove the encroachment in accordance with law and the said exercise is to be carried out within a period of ten weeks from the date of receipt of a copy of this order. The respondents 2 and 3 are also directed to send a communication in that regard to the petitioner as well as to the private respondents and other encroachers, if any.

12. The Writ Petition stands disposed of accordingly. No costs.

Sd/-
Assistant Registrar (AE)



To

1. The District Collector,
Virudhunagar District.

2. The Tahsildar,
Sivakasi Taluk,
Sivakasi, Virudhunagar District.

3. The Block Development Officer,
Sivakasi Panchayat Union,
Sivakasi.

+ 1 CC TO Mr.K.SAMIDURAI, ADVOCATE IN SR No. 48840

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 49551

RMI/SSL

TE/KKR/SAR-3 : 06/03/2018 : 4P/6C

ORDER MADE IN
W.P (MD) No.2653 of 2018
15.02.2018