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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 26.02.2018

CORAM:

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

W.P (MD) No.3930 of 2018
and
W.M.P (MD) No.4076 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.The Special Officer/
Block Development Officer (Village Panchayat),
Kariyapatti, Virudhunagar District.

5.Mahalingam

6.Seeman @ Gurusamy

.. 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 second and fourth respondents to take suitable action against all encroachments in Vetrilaimuriyanpatti Village streets and paths in equal before law, on the basis of the petitioner's representations, dated on 04.01.2018 and 13.02.2018.

For Petitioner

: Mr.R.Udhayakumar

For Respondent No.1

: Mr.A.K.Baskarapandian,
Special Government Pleader.

For Respondents 2 to 4

: Mr.M.Pandiyarajan,
Additional Government Pleader.

ORDER

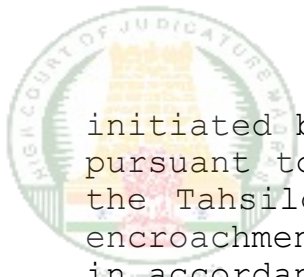
[Order of the Court was made by T.S.SIVAGNANAM, J.]

Heard the learned counsel appearing for the petitioner, Mr.A.K.Baskarapandian, learned Special Government Pleader, who accepts notice on behalf of the first respondent and Mr.M.Pandiyarajan, learned Additional Government Pleader, who accepts notice on behalf of the respondents 2 to 4.

2.The petitioner is before this Court, alleging that the respondents 5 and 6 have encroached into a public road and in spite of several representations given by the petitioner, no action has been initiated against those encroachers.

3.One A.Mahalingam filed W.P(MD)No.6040 of 20106, as a Public Interest Litigation, to remove encroachments in the said Village. The petitioner herein was arrayed as seventh respondent. However, the Division Bench, disposed of the writ petition, by order, dated 30.08.2017 and while doing so, did not issue any positive direction, but directed the third respondent, Tahsildar, Kariyapatti Taluk, Virudhunagar District, to conduct a fresh survey and if encroachment is noticed, the same shall be removed after issuing notice to the concerned parties and following the statutory procedure. The Court fixed a time limit of three months to comply with the direction. Immediately thereafter, the petitioner approached this Court, by filing W.P(MD)No.22675 of 2017, alleging that the petitioner Mahalingam and one Seeman @ Gurusamy were encroachers and no action has been taken on any of his representations. In the meantime, the petitioner was served with a notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905, by notice, dated 20.12.2017. This notice was challenged by the petitioner by filing W.P(MD)No.11 of 2018. However, the said writ petition was dismissed, on account of the fact that the petitioner did not comply with the requirements in filing the writ petition, such as, non-production of relevant documents, Aadhaar Card, etc. Subsequently, the petitioner sent his objections to the notice, dated 20.12.2017, issued under Section 7 of the Act, vide reply, dated 04.01.2018. It appears that the Tahsildar did not initiate any further action, but the fourth respondent passed an order under Section 6 of the Act, dated 09.02.2018, which was affixed in the petitioner's premises. Immediately thereafter, the petitioner has given a reply to the fourth respondent, pointing out as to how there are several other encroachments and he has been singled out and the person, who has constructed a marriage hall blocking the road, has been left scot free. Apprehending that further action will be initiated by the fourth respondent, the petitioner is before this Court, seeking for a direction to the respondents 2 to 4 to treat all persons as equal before law and initiate action by considering his representation.

4.The learned Additional Government Pleader appearing for the respondents 2 to 4 would submit that already action has been



initiated by the Tahsildar and no further action will be initiated, pursuant to order under Section 6 of the Act, dated 09.02.2018, but the Tahsildar, will survey the entire area and wherever there are encroachments, necessary and expeditious action will be initiated, in accordance with law.

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5. In the light of the above, further action pursuant to the order under Section 6 of the Act, dated 09.02.2018, is directed to kept in abeyance and the second respondent, Tahsildar, Kariyapatti Taluk, Virudhunagar District, is directed to conduct a survey of the entire area and wherever it is found that there is encroachment into Government land, road, etc., appropriate procedure be followed under the relevant statute and action be initiated against the encroachers after affording them adequate opportunity. The above direction shall be complied with, within a period of twelve weeks from the date of receipt of a copy of this order. If the second respondent, Tahsildar, Kariyapatti Taluk, Virudhunagar District, requires police protection, he shall address the Superintendent of Police, Virudhunagar District for necessary orders.

6. The writ petition stands disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AE)

/True Copy/

Sub-Assistant Registrar

To

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. The Special Officer/
Block Development Officer (Village Panchayat),
Kariyapatti, Virudhunagar District.
- +One cc to Mr. R. Udhayakumar, Advocate, SR.No.51403
+One cc to The Special Government Pleader, SR.no.51681
Smn
RL/7C/2P/SV/MMS/SAR2/13/3/2018

ORDER MADE IN
W.P (MD) No.3930 of 2018
and
W.M.P (MD) No.4076 of 2018