



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.03.2018
CORAM

WEB COPY

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

W.P. (MD) .No.4314 of 2018

V.Vijayaraghavan

... Petitioner

Vs.

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2.The Tahsildar,
Tahsildar Office,
Sivakasi.

3.The Village Administrative Officer,
Village Administrative Office,
Sivakasi Taluk,
Virudhunagar District.

4.P.Pandiyarajan
5.R.Karthikeyan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 3 herein to remove the encroachments made by the 4th respondent and 5th respondent in Survey No.1258/11 and 1258/19, Muthalamman Koil Street, Erichanatham Village, Sivakasi Taluk, Virudhunagar District.

For Petitioner : Mrs.S.Mahalakshmi
For R1to R3 : Mr.D.Muruganantham
Addl. Government Pleader

O R D E R

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

Heard Mrs.S.Mahalakshmi, learned counsel appearing for the petitioner, Mr.D.Muruganantham, learned Additional Government Pleader appearing for the respondents 1 to 3.

2.In the light of the direction, we propose to issue notice in this writ petition and considering the documents placed before this Court, notice to the respondents 4 and 5, is dispensed with.



3.The petitioner represents the Public of Erichanatham Village, Sivakasi Taluk, Virudhunagar District. The grievance expressed by the petitioner in the representation dated 05.01.2018, which has been sent by the petitioner and other persons, is that the fourth and fifth respondents have encroached the public pathway and a public place(Manthai) comprised in Survey Nos.1258/11 and 1258 of 19 respectively.

4.The learned counsel for the petitioner has drawn the attention of this Court to the copy of the sale deed executed in favour of the 5th respondent dated 04.03.2015 registered as Document No.526/2015. Referring to the description of the property, it is submitted that the boundaries as shown in the schedule of the sale deed clearly indicates that the lands purchased by the 5th respondent is adjoining the common pathway and public place. Much earlier, the Panchayat has passed a resolution on 12.01.2002, pointing out the encroachment made in the public land and has forwarded the same for appropriate action to be initiated by the Revenue Authorities. Since nothing happened thereafter, the petitioner and other villagers have submitted a representation dated 05.01.2018, which has been sent by Registered Post with acknowledgment due and received the office of the respondents 1 to 3, as it could be seen from the postal acknowledgment card. Further, the learned counsel has referred to the FMB sketch and the adangal to show that the lands are Government lands.

5.In the light of the above facts, it is a fit case where the second respondent should consider the representation and direct inspection to be done and if there is any encroachment in a public land, immediate action is required to be taken. However, this does not mean that if the encroachment is found, forcibly the encroachers have to be thrown out. If such action is initiated, the encroachers would approach this Court complaining violation of principles of natural justice. If there is an encroachment on the public land, then the second respondent has to follow the procedure contemplated under the provisions of the Tamil Nadu Land Encroachment Act, 1905 or any other applicable Statute and then proceed in accordance with law.

6.Thus, without expressing any positive opinion on the petitioner's grievance, we direct the second respondent to consider the petitioner's representation dated 05.01.2018 and cause inspection of the property and proceed in accordance with law, after issuing notice to the respondents 4 and 5. The aforesaid directions shall be complied with by the second respondent, within a period of 8 weeks from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar(Crl.Side)



To

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2.The Tahsildar,
Tahsildar Office,
Sivakasi.

3.The Village Administrative Officer,
Village Administrative Office,
Sivakasi Taluk,
Virudhunagar District.

+One cc to The Special Government Pleader, SR.No.53027

+One cc to M/s.S.Mahalakshmi, Advocate, SR.No.52264

Ns

RL/6C/3P/SV/MMS/SAR2/13/3/2018

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