



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.01.2018

CORAM:

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

W.P(MD)No.610 of 2018
and
W.M.P(MD)No.641 of 2018

S.Nagarajan

.. Petitioner

Vs.

1. The District Collector,
Kanyakumari District,
Kanyakumari.
2. The Tasildhar,
Agasteeswaram Taluk,
Nagerkoil, Kanyakumari District.
3. Agasteeswaram Town Panchayat
rep. by the Special Officer,
Agasteeswaram, Kanyakumari District.

4.Balakrishnan

.. 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 1 to 3 to remove the encroachments made by the fourth respondent in Survey Nos.157/5A and 157/6 in Sukkuparai Therivilai Amman Koil to Saravanan Therivillai Road, Agasteeswaram Post, Agasteeswaram Village, Agasteeswaram Panchayat, Agasteeswaram Taluk, Kanyakumari District and restore the Government Land to its original petition.

For Petitioner

: Mr.Fazil
for Mr.T.Lajapathi Roy

For Respondents 1 and 2

: Mr.M.Murugan,
Government Advocate.

For Respondent No.3

: Mr.K.Anbarasan,
Standing Counsel.

ORDER

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

By consent, this writ petition is taken up for final disposal.

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2.Mr.M.Murugan, learned Government Advocate, accepts notice on behalf of the respondents 1 and 2 and Mr.K.Anbarasan, learned standing counsel, accepts notice on behalf of the third respondent.

3.The petitioner claims that he is a public spirited person totally committed to the welfare of the downtrodden people as well as oppressed people in the area and he has filed this writ petition, styled as a "Public Interest Litigation". It is the specific case of the petitioner that the fourth respondent, who is having a landed property comprised in Survey Nos.157/5A and 157/6 in Sukkuparai Therivilai Amman Koil to Saravanan Therivillai Road, Agasteeswaram Post, Kanyakumari District, admeasuring to an extent of 0.75 cent, started putting up superstructure on the land and in that process, had encroached upon 60.72 feet on the common pathway used by the general public. The petitioner, in this regard, has submitted a representation, dated 07.12.2017, to the third respondent authority, followed by another representation, dated 16.12.2017, and despite receipt and acknowledgment, no steps have been taken to remove the said encroachment and hence, came forward to file this writ petition.

4.Heard the learned counsel appearing for the petitioner, who has drawn the attention of this Court to the typed-set of documents and would submit that though, the fact of encroachment on the part of the fourth respondent, has been brought to the knowledge of the concerned officials, no action has been taken and hence, the petitioner is constrained to approach this Court, by filing this writ petition.

5.Per contra, the learned standing counsel appearing for the third respondent would submit that the third respondent, after putting the petitioner as well as fourth respondent on notice, shall cause inspection of the premises of the petitioner as well as construction being put up by the fourth respondent and depending upon the result of the same, action would be taken against both of them.

6.This Court has considered the rival submissions and also perused materials placed before it.

7.Though, the petitioner prays for a larger relief, this Court, in view of the aforesaid facts and circumstances of the case and without going into the merits of the claim projected by the petitioner either in the representation or in this writ



petition, directs the third respondent to put the petitioner as well as fourth respondent, on notice, and cause inspection of the premises of the petitioner as well as the fourth respondent, to find out whether the superstructure is put up/being put up by encroaching the public road and further whether the said structures are deviated/unauthorised and depending upon the result of the same, shall take appropriate action in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner as well as to the fourth respondent.

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

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Kanyakumari District,
Kanyakumari.
2. The Tasildhar,
Agasteeswaram Taluk,
Nagerkoil, Kanyakumari District.
3. The Special Officer,
Agasteeswaram Town Panchayat,
Agasteeswaram, Kanyakumari District.

+ 1 cc TO Mr.T.Lajapathi Roy , Advocate in SR No. 42041
+ 1 cc TO The Special Government Pleader in SR No. 42311

smn

AE/KK/SAR2/24.01.2018/3P/6C

ORDER MADE IN
W.P (MD) No.610 of 2018
and
W.M.P (MD) No.641 of 2018
11.01.2018