



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

and

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P (MD) No.1903 of 2016

A.Murugesan

... Petitioner

Vs.

1. The District Collector
Ramanathapuram District,
Ramanathapuram

2. The Special Tahsildar,
(Adi Dravidar Welfare)
Mudukulathoor,
Ramanathapuram district.

3. The Revenue Divisional Officer,
Paramakudi,
Ramanathapuram district.

4. The Tahsildar,
Mudukulathoor,
Ramanathapuram district.

5.Ramanathan

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a writ of Mandamus, directing the Respondents No.1 to 4 to take necessary action on the basis of petitioner's representation dated 23.11.2015 with regard to removal of the illegal encroachment made by the Respondents No.5 in Survey No.227/1 at Venneer Vaikkal Village, Mudukulathoor Taluk, Ramanathapuram District.

For Petitioner

:Mr.D.Anbarasu

For R-1 to R-4

:Mr.M.Murugan,
Government Advocate

For R-5

:Mr.A.R.Nambunayagam

ORDER

(Order of the Court was made by **M. SATHYANARAYANAN, J.**)



2. The petitioner claims that he belongs to Schedule Caste Community and according to him, a landed property admeasuring to an extent of 22 cents in Survey No.227/1 at Venneer Vaikkal Village, Mudukulathoor, Ramanathapuram District, was originally occupied by the people belonging to Schedule Caste Community, who were the residents of the said Village and in the year 1978, the lands were acquired for provision of house sites to them and the said land in Survey No.227/1, admeasuring to an extent of 22 cents was allotted for the purpose of putting up / establishing a park.

3. The grievance expressed by the petitioner is that the fifth respondent taking advantage of the fact that no park came into existence, had encroached upon the same and started putting up superstructure and in this regard, personal representations were made followed by a representation dated 23.11.2015 and despite receipt and acknowledgment, no response is forthcoming and left with no other option only, the petitioner came forward to file this Writ Petition as a 'Public Interest Litigation'.

4. The learned counsel appearing for the petitioner would submit that once a land is reserved for public purpose, it cannot be utilized for any other purpose and though, the act of the fifth respondent in committing the illegal encroachment was brought to the knowledge of the concerned Official respondents, no action has been taken and therefore, the petitioner is constrained to file this writ petition.

5. The learned Counsel appearing for the fifth respondent has drawn the attention of this Court to the Counter Affidavit dated 02.02.2018 and would submit that the said land was originally belong to the father of the fifth respondent and he made a request to de-notify the said land and it was favourably considered by Adi Dravidar and Schedule Tribes Welfare (L.A1) Department vide G.O.(sd) No.121 dated 08.10.2007, and the acquisition proceedings in respect of the said land admeasuring to an extent of 0.22 acres in Survey No.227/1, has been dropped and since the father of the fifth respondent died, leaving the estate, as on date, the fifth respondent is the owner of the said land.

6. In response to the said submissions, the learned Counsel for the petitioner would submit that once a colony is developed, it is the bounden duty of the Official respondents to provide a park and hence, prays for appropriate orders.

7. This Court heard the submissions of Mr.M.Murugan, learned Government Advocate appearing for the Official respondents also.

<https://hcservices.ecourts.gov.in/hcservices/>

8. This Court carefully considered the rival submissions and perused the materials placed before it.



9. The fact remains that as on date, the petitioner claims to be in possession of the property, by virtue of the fact that the land in question has been de-notified from acquisition, vide notification of Adi Dravidar and Schedule Tribes Welfare (L.A1) Department, in G.O.(sd) No.121 dated 08.10.2007 and as such, the petitioner cannot claim any right over the same and insofar as the prayer sought for by the petitioner as to the establishment of a park is concerned, if so advised, he is always at liberty to workout his remedy administratively.

10. In the result, the Writ Petition stands dismissed, subject to the above observations. No costs.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector
Ramanathapuram District,
Ramanathapuram
2. The Special Tahsildar,
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3. The Revenue Divisional Officer,
Paramakudi,
Ramanathapuram district.
4. The Tahsildar,
Mudukulathoor,
Ramanathapuram district.

+1cc to Mr.D.Anbarasu, Advocate Sr.No.46520

+1cc to Mr.A.R.Nambunayagam, Advocate Sr.No.45869

+1cc to The Spl. Government Pleader Sr.No.46143

PM/RM

VB/KKR/SAR4/19/02/2018/3P/8C