

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :23.01.2019

CORAM

THE HONOURABLE Mr.JUSTICE S.M.SUBRAMANIAM

W.P.No.39203 of 2004

D.T.K.Kaliyaperumal

..Petitioner

vs

1.The District Collector,
Cuddalore.

2.The Superintendent of Police,
Cuddalore.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to remove the encroachment made in Survey Nos.34A, 16, 17, 18, 13, 4/2, 2A, 2B, 3B, 5/6, 7B, 6/1, 2/25, 201 in Keerapalayam Village, Chidambaram Taluk, Cuddalore District.

For Petitioner :Mr.KM.Ramesh

For Respondents : Mrs.Janaki

Addl. Govt. Pleader for R1 & R2

O R D E R

The relief sought for in the present writ petition is for a direction to direct respondents to remove the encroachment made in Survey Nos.34A, 16, 17, 18, 13, 4/2, 2A, 2B, 3B, 5/6, 7B, 6/1, 2/25, 201 in Keerapalayam Village, Chidambaram Taluk, Cuddalore District.

2. The writ petitioner have purchased a land in Survey Nos.34A, 16, 17, 18, 13, 4/2, 2A, 2B, 3B, 5/6, 7B, 6/1, 2/25, 201 in Keerapalayam Village, Cuddalore District. The said land is situated adjaent to the Senthithope to Chidambaram Highways road. The grievances of the writ petitioner is that few people encroached the Senthithope to Chidambaram Highways road and put up thatched house till Sathankulam. On account of the encroachment at large scale, the land owners adjacent to the National Highways road are unable to reach their property and

much inconveniences are caused by the encroachers in that locality.

3. Encroachment is a social evil. Encroachment can never be permitted by the Authorities Competent. The Authorities Competent must be vigil over the Government properties, more specifically, the National Highways which is more sensitive in nature. In the event of lapses, negligence or dereliction of duty in this regard by the Competent Authorities, the higher authorities are bound to initiate disciplinary proceedings against all such officials who all are responsible for such encroachments and not initiated action for eviction of encroachment from the public land, water bodies and water resources.

4. Growing trend across the State is to encroach the public lands for personal gains and for unlawful enrichment. The illegal actions of such greedy men are to be dealt in accordance with law by the Competent Authorities by evicting them by following the procedures contemplated under the Encroachment Act.

5. This Court is of an opinion that the Authorities Competent and the Field Officers concerned are very much aware of all these encroachments within their jurisdiction and in the particular locality. Inspite of their clear knowledge about the encroachment such Authorities are not initiating action to evict such encroachers either on account of their slackness or on account of some corrupt activities. However, all such omissions and commissions are to be viewed seriously and appropriate prosecution and actions are to be initiated against all such public officials who all are not exercising their official duties effectively and efficiently.

6. The solemn officials of the State executes are to be exercise prudently, cautiously to implement the Constitutional principles and ethos. The failure in this regard by the executives of the State cannot be viewed leniently. Thus, this Court is of an opinion that the encroachments in poramboke lands, water bodies and water resources ought to be evicted by following the procedures and if at all, the persons who are under encroachment is landless poor persons, they can be provided with an alternative land or house by formulating a scheme and by considering the cases of such similarly placed landless poor people. In the event of implementing such welfare scheme for the welfare of the landless poor people, the Competent Authorities must implement the same strictly in accordance with the terms and conditions of the Government policy, and by providing equal opportunity to all such similarly placed persons.

7. Contrarily, the people cannot be allowed to encroach upon the Government land on their whims and fancies and utilized the same for their personal gains and for unlawful enrichment. This being the legal principles to be followed, this Court is of an opinion that the respondents are bound to evict all such encroachments in that locality, more specifically, within their jurisdiction by following the procedures contemplated under law.

8. In view of the matter, the following orders are passed.

1. The respondents are directed to evict the encroachments in respect of the Survey numbers specified in the present writ petition by following the procedures contemplated under the Tamil Nadu Land Encroachment Act, 1905.
2. The District Collector, Cuddalore District is directed to convene a review meeting of all the concerned officials within a period of 2 weeks and identify the encroachments within his jurisdiction in Cuddalore District and thereafter, issue suitable orders/instructions to all the officials concerned to evict the encroachment in poramboke lands, water bodies and water resources by following the procedures contemplated under the said Act whichever is applicable.
3. In the event of any failure, lapses, negligence or dereliction of duty on the part of the public officials concerned, the District Collector is directed to initiate appropriate prosecution and disciplinary proceedings against all such public officials without any leniency.
4. The District Collector is directed to issue circulars to all the officials concerned to protect the poramboke land, public properties, water bodies and water resources in the manner prescribed under various Statutes.
5. The Superintendent of Police / 2nd respondent is directed to provide adequate protection for the purpose of evicting these encroachers by the first respondent.

9. With these directions, the writ petition stands disposed of. No Costs.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

Pkn

To

1.The District Collector, Cuddalore.

2.The Superintendent of Police, Cuddalore.

+1cc to Mr.K.M.Ramesh, Advocate SR.No.4999

+1cc to Government Pleader SR.No.6044

W.P.No.39203 of 2004

RGN (CO)

GMV (28/02/2019)



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