

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.01.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.VENUGOPAL
AND
THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

W.P.No.148 of 2016
and
W.M.P.No.81 of 2016

Tmt.S.Lakshmiammal

.. Petitioner

Vs.

1. The Secretary to Government of Tamil Nadu,
Public Works Department,
Fort St.George, Chennai-9.
2. The Junior Engineer,
PWD, Sriperumbudur,
Kancheepuram District.
3. The Secretary to Government of Tamil Nadu,
Revenue Department,
Fort St.George, Chennai-9.
4. The Commissioner of Land Administration,
Chepauk, Chennai-5.
5. The District Collector, Kancheepuram District.
6. The Revenue Divisional Officer,
Sriperumbudur,
Kancheepuram District.
7. The Tahsildar,
Sriperumbudur,
Kancheepuram District.
8. D.Baskar

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the

Respondent Nos.1 to 7 to take necessary action to remove the encroachment in the nature of 5' feet concrete drainage water channel in S.No.39/26 Sanda Vellore Village, affecting the petitioner's land and concrete housing structures in the water course channel at exit point of Sanda Vellore Village Lake, Sriperumbudur Taluk, Kancheepuram District, built by the Respondent No.8, within stipulated time period as may be fixed by this Court.

For Petitioner : Mr.V.Pandiyar for Mr.T.Sundaravadanam

For Respondents : Mr.S.N.Parthasarathy,
Govt. Advocate for RR-1 to 7

For R-8, notice served on 02.02.2016 - No appearance

ORDER

(The Order of the Court was made by M.Venugopal, J)

The Petitioner has filed this Writ Petition for issuance of a Writ of Mandamus to direct the Respondent Nos.1 to 7 to take necessary action to remove the Encroachment in the nature of 5' feet Concrete Drainage Water Channel in S.No.39/26 Sanda Vellore Village, affecting the Petitioner's Land and Concrete Housing Structures in the Water Course Channel at Exit Point of Sanda Vellore Village Lake, Sriperumbudur Taluk, Kancheepuram District, built by the Respondent No.8, within stipulated time period as may be fixed by this Court.

2. Heard the Learned Counsel for the Petitioner and the Learned Government Advocate for the Respondent Nos.1 to 7. Although the Respondent No.8 had been served with Notice through Court on 02.02.2016, yet, there is no appearance on his behalf, either in person or through a Learned Counsel.

3. According to the Petitioner, she had purchased a piece of Land situated in S.No.39/26, 34, Sanda Vellore Village, Sriperumbudur Taluk, Kancheepuram District, measuring an extent of 5 Cents, from one Muthu, which was initially attempted to be trespassed by the Eighth Respondent by entering into the Land belonging to the Petitioner. When the Petitioner protested and agitated to hold the said Land owned by her, a suit in O.S.No.109 of 2015 was filed before the District Munsif-cum-Judicial Magistrate's Court, Sriperumbudur, by the Petitioner, in which, an Order of Interim Injunction was granted on 12.03.2015. After the grant of the Order of Interim Injunction, to emphasise that the Civil Courts cannot curtail them in any manner by encroaching and constructing the long Drainage Channel in the land belonging to the Petitioner to re-divert the only Rain Water flow and existing Drainage Water flowing through the

Water Course Channel to Sanda Vellore Lake, which is the only Water Body of the Petitioner's Village and with an intention to grab the adjacent Poramboke Lands at Sanda Vellore and Molachur Villages to an extent of 50 Cents of Water Body Channel by constructing basement on the Drainage Channel for his own use, re-diverted the flow to the Petitioner's Property attracting the penal Provisions.

4. The grievance of the Petitioner is that the offenders started encroaching upon the Water Body and Drainage Channels, due to pre-occupied Government Poramboke Lands and the same has occurred in the instant case and the offenders who have constructed 10 house portions in the Porakboke Land by occupying one of the portions and to gain enormous rents from the remaining houses, he has let it for rent upon the Water Course Channel, with greedy intention to generate funds from the Government Lands, as the very guardian and custodian of the Government Lands are busy in performing and discharging their duties in the neighbouring States.

5. At this stage, the Learned Counsel for the Petitioner points out that the Eighth Respondent is not a person who does not even have a single house plot for his shelter, but he has excess Lands, but still his intention is to grab the entire vacant Government Lands of all nature like Poramboke Lands, Water Channels, Drainage Channels of Sanda Vellore and Molachur Villages, Sriperumbudur Taluk, Kancheepuram District, as the Revenue Panchayat Raj Officials are dying hard to earn money by permitting such offenders.

6. The Learned Counsel for the Petitioner contends that not even one official has courage and boldness to evict the Encroachers from the Encroached Lands, and that there is an offence of grabbing the Public Land to adjust and divert the Water Course and they will continue to grab the private persons' Land indirectly by letting the Drainage Water in the vacant Lands and every officials including the Law Enforcing Officials are mute spectators, and the atrocities committed by the offenders are endorsed by the entire Revenue Department Officials commencing from the Village Administrative Officer, the Revenue Inspector, the Revenue Divisional Officer, the District Revenue Officer, etc.

7. Learned Counsel for the Petitioner strenuously projects an argument that the entire Encroachment was complained to the officials concerned and the Petitioner even sought for enquiry upon the Officials of the State Government, if cognizable offence is made out and the entire Government Officials together with the Eighth Respondent, are colluding with Criminal Conspiracy and Abetment charge of squatting upon the Public

Lands along with Encroaching upon private Patta lands by building concrete Water Channel to divert the Water Course Channel. Moreover, as per the Revenue Records like FMB Sketch, A-Register, etc., the deviations will lead to the entire Encroachments throughout the State, and it is flourishing like Mushroom and still the Officials concerned are reluctant and negligent and they are with lethargic attitude. As a matter of fact, the Petitioner made a Representation dated 07.06.2015 to the Respondents, which was not considered till date by them and also that no Enquiry was also conducted in regard to the blockage of Water Channel and diverting the same into the Land belonging to the Petitioner. Continuing further, a private person, for the first time, has constructed Private Drainage Water Channel from his own money for public use. Apart from that, for the name sake, directions were issued on 11.05.2015 and 09.07.2015 by the Respondent Nos.5 and 6 to the Respondent No.7 to evict the Encroachment made by the Eighth Respondent. However, the said directions have not been complied with till date, nor implemented in true letter and spirit. Hence, the Petitioner has filed the present Writ Petition for the relief stated supra.

8. It is to be noted that before this Court, the Petitioner has not enclosed in the typed set of papers, a copy of the said directions, dated 11.05.2015 and 09.07.2015 purportedly issued by the Respondent Nos.5 and 6 to the Respondent No.7, to evict the Encroachment made by the Eighth Respondent and also at the time of hearing the present Writ Petition, the said copy of the directions was also not produced on behalf of the Petitioner. But the Petitioner has addressed a Representation, dated 07.06.2015 to the Honourable Prime Minister of India and 9 others (including the District Collector, Kancheepuram District, the District Revenue Officer, Kancheepuram District, the Revenue Divisional Officer, Sriperumbudur, Kancheepuram District, the Tahsildar, Sriperumbudur, Kancheepuram District, the Block Development Officer, Sriperumbudur, Kancheepuram District and the Superintendent of Police, Kancheepuram District) for taking necessary action against the Eighth Respondent (D.Baskar) and also against the officials of the Revenue Department, Panchayat Raj and Law Enforcing Officials who are collusive and abetted the scam of squatting upon the private property in S.No.39/26, Sanda Vellore Village, Sriperumbudur Taluk, Kancheepuram District.

9. A mere running of an eye over the contents of the Representation of the Petitioner, dated 07.06.2015, latently and patently indicates that the Petitioner has made a request to the officials concerned to order for Central Vigilance Commission / Central Bureau of Investigation enquiry upon the officials of the State Government, if cognizable offence is made out, and

thereby, direct the CBI to register a case against the entire Government officials, along with the Eighth Respondent and their henchmen, etc.

10. Admittedly, in the Civil Suit filed in O.S.No.109 of 2015 on the file of the District Munsif-cum-Judicial Magistrate's Court, Sriperumbudur, only the Eighth Respondent was arrayed as the First Defendant and one Velayudham was arrayed as the Second Defendant. The Fifth to Seventh Respondents herein (beginning from District Collector, Kancheepuram to the Tahsildar, Sriperumbudur, Kancheepuram District) were not shown as necessary Defendants in the said Suit filed by the Petitioner herein as Plaintiff.

11. Considering the fact that the Petitioner in the present Writ Petition has sought for passing of an order by this Court in directing the Respondent Nos.1 to 7 to take necessary action to remove the Encroachment in the nature of 5 Feet Concrete Drainage Water Channel in S.No.39/26, Sanda Vellore Village, affecting the Petitioner's Land and Concrete Housing Structures in the Water Course Channel at exit point of Sanda Vellore Lake, Sriperumbudur Taluk, Kancheepuram District, built by the Eighth Respondent, within a stipulated time adumbrated by this Court, and on going through the averments made by the Petitioner in paragraph 10 of the affidavit filed in support of the Writ Petition, wherein she has mentioned that directions were issued by the Respondent Nos.5 and 6 on 11.05.2015 and 09.07.2015 to the Respondent No.7, to evict the Encroachment made by the Eighth Respondent and till date, the same is not yet complied with, this Court, at this stage, without expressing any opinion on the merits of the matter and also not delving deep into the same, simpliciter, directs the Respondent Nos.5 to 7 to inspect the subject property, namely S.No.39/26, Sanda Vellore Village, Sriperumbudur Taluk, Kancheepuram District, within a period of four weeks from the date of receipt of a copy of this order, and if they find any Encroachment in the nature of 5 Feet Concrete Drainage Water Channel, affecting the Petitioner's Land and Concrete Housing Structures in the Water Course Channel at exit point of Sanda Vellore Village Lake, Sriperumbudur Taluk, Kancheepuram District, built by the Eighth Respondent, then they are entitled to take such action as they deem fit and proper in removing the Encroachment in question, within a period of four weeks from the date of such inspection, and if the Respondent Nos.5 to 7 opine that if any opportunity of hearing is to be given to the Eighth Respondent, then they may afford a reasonable opportunity of hearing to him in person or in writing and after noting down his Objections/Representation, if any, the Respondent Nos.5 to 7 can pass necessary orders in the subject matter in issue, of course, in a free, fair, just, unbiased,

objective and dispassionate manner, after adhering to the principles of natural justice, if the situation so warrants.

12. With the above observations and directions, the Writ Petition is disposed of. No costs. Consequently, W.M.P. is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

cs

To

1. The Secretary to Government of Tamil Nadu,
Public Works Department,
Fort St.George, Chennai-9.
 2. The Junior Engineer,
PWD, Sriperumbudur,
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 3. The Secretary to Government of Tamil Nadu,
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Sriperumbudur, Kancheepuram District.
 7. The Tahsildar, Sriperumbudur,
Kancheepuram District.
- +1 cc to The Government Pleader, Sr.No.4001

W.P.No.148 of 2016

RR(CO)
CSL/18.02.2019