

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24.01.2019

CORAM

THE HON'BLE MR JUSTICE M. VENUGOPAL
AND
THE HONOURABLE MR. JUSTICE R. PONGIAPPAN

W.P.No.29348 of 2016

N. Kesava Reddy ... Petitioner
Vs

1. The District Collector,
Krishnagiri District.
2. The Sub Collector,
Hosur,
Krishnagiri District.
3. The Assistant Director (Town Panchayat),
Dharmapuri Division,
Dharmapuri.
4. The Tahsildar,
Denkanikottai Taluk,
Krishnagiri District.
5. The Executive Officer,
Denkanikottai Town Panchayat,
Denkanikottai Town,
Denkanikottai Taluk,
Krishnagiri District.

6. Mrs.Santhamma Respondents

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Mandamus directing the Respondents 1 to 5 to take necessary action against the 6th Respondent to remove the unauthorised construction of drainage sump and water tank in the common pathway in Survey No.754/4/2 of Denkanikottai Village and Taluk, Krishnagiri District.

For petitioner : Mr.K. Thiruvengadam

For R.1 to R.5 : Mr.S.N. Parthasarathy
Govt. Advocate

ORDER

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

Heard the Learned Counsel for the Petitioner and the Learned Government Advocate for the Respondents 1 to 5.

2. No counter is filed on behalf of the Respondents 1 to 5. In respect of Sixth Respondent, the Court Notice got returned with an endorsement ' No such Addressee. Hence returned to Sender ' To avoid inordinate delay, fresh Notice is not ordered by this Court to the Sixth Respondent.

3. According to the Petitioner, he is residing at No.189, School Road, Denkanikottai Town, Denkanikottai Taluk, Krishnagiri District and more than 100 families are residing in and around in Survey No.754 of 'Denkanikottai Village'. He has a house in Survey No.754/4 and is residing permanently for the past 9 years.

4. According to the Petitioner, there is a common pathway in respect of the aforesaid 100 families in Survey No.754/4/2 and that is the only approach to the main road for the Petitioner's house. In fact, the said common pathway, The Sixth Respondent had unauthorisedly constructed drainage sump and water tank in a manner obstructing 'ingress and egress' to the aforesaid 100 families and also to the Petitioner. The Sixth Respondent has no manner of right or title or whatsoever to encroach upon the common pathway, which is the only access to the Petitioner's house and also to the other 100 families residing in that area. सत्यमेव जयते

5. The Petitioner questioned the Sixth Respondent about her illegal and unauthorised construction in the common pathway, the Sixth Respondent with her husband Mr.Venkatesh threatened the Petitioner and his family members with dire consequences. Hence, the Petitioner made a Representation dated 05.07.2016 to the Respondents No.1 to 5 praying for taking appropriate action to remove the unauthorised construction of drainage sump and water tank put by the Sixth Respondent in the common pathway in Survey No.754/4/2 of Denkanikottai Village.

6. As a matter of fact, the Petitioner has sent a representation to the Hon'ble Chief Minister of Tamil Nadu on

05.07.2016 itself praying for taking necessary action against the Sixth Respondent with regard to the removal of unauthorised and illegal construction put by her on the common pathway. The Petitioner has filed the present Writ Petition praying for passing of an Order directing the Respondents No.1 to 5 to take necessary action against the Sixth Respondent to remove the unauthorised construction of drainage sump and water tank in the common pathway in Survey No.754/4/2 of Denkanikottai Village and Taluk, Krishnagiri District.

7. In response, Mr.S.N. Parthasarathy, Learned Government Advocate appearing for the Respondents No.1 to 5 fairly submits that the Assistant Director of Panchayats, Dharmapuri Division vide Na.Ka.No.1758/2016/P4 dated 12.07.2016 had addressed a communication to the Executive Officer Panchayat Office, Denkanikottai to take necessary action on the Representation of the Petitioner dated 05.07.2016 (which was enclosed along with District Collector's letter) and further, the said Executive Officer, Panchayat Office, Denkanikottai was required to send a report to the Office of the Assistant Director of Panchayats, Dharmapuri Division.

8. At this stage, the Learned Counsel for the Petitioner brought to the notice of this Court that after issuance of the letter dated 12.07.2016 by the Assistant Director of Panchayats, Dharmapuri Division/Third Respondent herein, addressed to The Executive Officer, Panchayat Office, Denkanikottai/Fifth Respondent herein, no tangible steps have been taken by the authorities concerned in the subject matter in issue.

9. In view of the fact that no tangible step has come out after issuance of the communication sent by the Assistant Director of Panchayats, Dharmapuri Division/Third Respondent herein vide Na.Ka.No.1758/2016/P4 dated 12.07.2016 to the Executive Officer, Panchayat Office, Denkanikottai/Fifth Respondent herein, this Court, in the interest of justice, equity and fair play and even as a matter of prudence, directs the Fifth Respondent/The Executive Officer, Denkanikottai Town Panchayat, Denkanikottai Town, Denkanikottai Taluk, Krishnagiri District to immediately act on the Representation of the Petitioner dated 05.07.2016 without further loss of time and to dispose of the same by removing the unauthorised construction of drainage sump and water tank put up by the Sixth Respondent in the common pathway in Survey No.754/4/2 of Denkanikottai Village and Taluk, Krishnagiri District, of course, after affording an opportunity of hearing to the Petitioner as well as the Sixth Respondent and also after obtaining written objections of the Sixth Respondent, if any.

10. It cannot be gainsaid that the Representation of the

Petitioner dated 05.07.2016 shall be disposed of by the Fifth Respondent / The Executive Officer, Denkanikottai Town Panchayat, Denkanikottai Town, Denkanikottai Taluk, Krishnagiri District within a period of two weeks from the date of receipt of a copy of this order.(if not yet already disposed of by this time).

11. It is open to the Executive Officer, Denkanikottai Town Panchayat, Denkanikottai Town, Denkanikottai Taluk, Krishnagiri District to take assistance of Police force in removing the unauthorised construction of drainage sump and water tank in the common pathway in Survey No.754/4/2 of Denkanikottai Village and Taluk, Krishnagiri District, if need be situation so warrants. The Petitioner as well as the Sixth Respondent are directed to lend their unstinted co-operation in disposing of the Representation of the Petitioner dated 05.07.2016 and also in regard to the removal of unauthorised construction of drainage sump and water tank in the common pathway in Survey No.754/4/2 of Denkanikottai Village and Taluk, Krishnagiri District.

12. With the aforesaid observations and direction, the Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS-VIII)

//True copy//

Sub Assistant Registrar

sr

To

1. The District Collector,
Krishnagiri District.
2. The Sub Collector,
Hosur,
Krishnagiri District.
3. The Assistant Director (Town Panchayat),
Dharmapuri Division,
Dharmapuri.
4. The Tahsildar,
Denkanikottai Taluk,
Krishnagiri District.

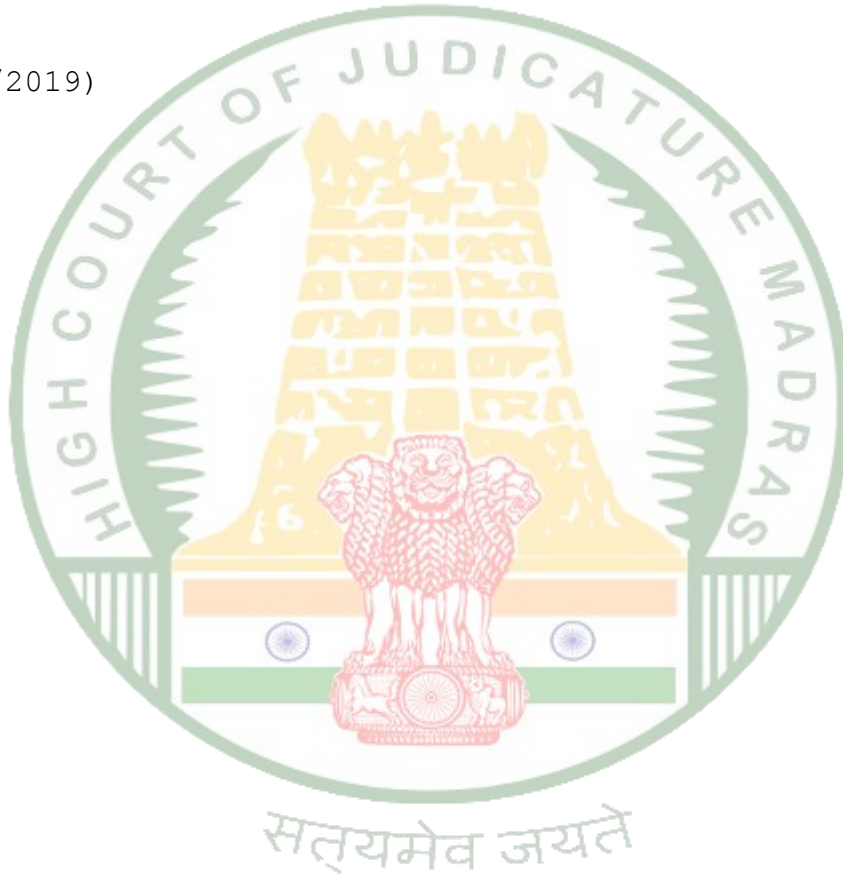
5. The Executive Officer,
Denkanikottai Town Panchayat,
Denkanikottai Town,
Denkanikottai Taluk,
Krishnagiri District

+1cc to Mr.K.Thiruvengadam, Advocate SR.No.5583

+1cc to Government Pleader SR.No.6031

W.P.No.29348 of 2016

KK (CO)
GMY (22/02/2019)



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