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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2019

CORAM :

THE HON'BLE MRS.VIJAYA K.TAHILRAMANI, CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P.No.21099 of 2019

K.Jayakumar

.. Petitioner

Vs.

- 1.The Government of Tamil Nadu,
rep by its Secretary to Government,
Revenue Department,
Secretariat, Fort St.George,
Chennai - 600 009.
- 2.The Government of Tamil Nadu,
rep by its Secretary to Government,
Rural Development & Panchayat Raj Department,
Secretariat, Fort St.George,
Chennai - 600 009.
- 3.The Commissioner of Revenue Department,
Ezhilagam, Kamaraj Salai,
Chepauk, Chennai - 600 005.
- 4.The Commissioner of Rural Development & Panchayat Raj,
Ezhilagam, Kamaraj Salai,
Chepauk, Chennai - 600 005.
- 5.The District Collector,
Villupuram District, Villupuram.
- 6.The District Revenue Officer,
Villupuram District, Villupuram.
- 7.The Revenue Divisional Officer,
Villupuram District, Villupuram.
- 8.The Tahsildar,
Ulundurpet Taluk, Villupuram District.



9.The Block Development Officer
(Village Panchayats),
Thirunavalur Panchayat Union,
Villupuram District.

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10.The Special Officer/The Block Development Officer
(Village Panchayats),
Kalamarudur Panchayat,
Thirunavalur Panchayat Union,
Villupuram District.

11.G.Elangovan

12.N.Kamalakannan

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of mandamus directing the respondents 1 to 7 to recover Rs.3,10,000/- with interest at the rate of 12% from 24.01.2019 till the date of payment in full from the salary/monetary benefits of the respondents 8 to 12 towards loss, damages and compensation for the illegal and unlawful demolition of the petitioner's house's compound wall without following the due process of law and in utter violation of the statute by the respondents 8 to 12 and pay the amount to the petitioner within a time period to be fixed by this Court.

For Petitioner : Mr.L.S.M.Hasan Fizal

For Respondents: Mr.V.Jayaprakash Narayanan,
Government Pleader (i/c) (R1 to R10)

O R D E R

(ORDER OF THE COURT WAS MADE BY M.DURAIWAMY, J.)

The above Writ Petition has been filed by the petitioner to issue a Writ of mandamus directing the respondents 1 to 7 to recover Rs.3,10,000/- with interest at the rate of 12% from 24.01.2019 till the date of payment in full from the salary/monetary benefits of the respondents 8 to 12 towards loss, damages and compensation for the illegal and unlawful demolition of the compound wall of the petitioner's house without following the due process of law and in violation of the statute by the said respondents within a period of time prescribed by this Court.

2.It is the case of the petitioner that the respondents 1 to 7 have unlawfully demolished the compound wall of his house without following due process of law.

3.On a perusal of the affidavit filed in support of the petition, it could be seen that the official respondents issued



a notice dated 31.08.2018 under Section 7 of the Tamil Nadu Land Encroachment Act, 1905, which according to the petitioner, was received by him on 07.11.2018 and 08.11.2018. Thereafter, the petitioner submitted his representation and was called for an enquiry on 23.01.2019 and an order under Section 6 of the Act was also passed on 04.01.2019 in respect of the encroachment made by the petitioner. Since the official respondents have issued notice under Section 7 of the Act and thereafter, issued notice under Section 6 on 04.01.2019, it cannot be stated that the respondents have not followed due process of law. Only after issuing Section 6 notice dated 04.01.2019, the encroachment was removed on 24.01.2019.

4.It is pertinent to note that the petitioner has not challenged the notice issued under Section 6 of the Act before the Appellate Authority and therefore, the said notice has become final. Now, alleging that the respondents have illegally demolished the compound wall, the petitioner is claiming damages of Rs.3,10,000/-.

5.So far as the damage is concerned, it is a matter for evidence and this Court cannot quantify the amount of compensation. It is settled position that under Article 226 of the Constitution, there is no provision for adducing evidence to substantiate the claim made by the petitioner. In such view of the matter, we are not inclined to entertain the Writ Petition. However, it is open to the petitioner to approach the Civil Court for claiming damages in accordance with law.

6.With these observations, the Writ Petition is dismissed. No costs.

Sd/-
Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

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To

- 1.The Secretary to Government of Tamil Nadu,
Revenue Department,
Secretariat, Fort St.George, Chennai - 600 009.
- 2.The Secretary to Government of Tamil Nadu,
Rural Development & Panchayat Raj Department,
Secretariat, Fort St.George, Chennai - 600 009.



3.The Commissioner of Revenue Department,
Ezhilagam, Kamaraj Salai, Chepauk, Chennai - 600 005.

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4.The Commissioner of Rural Development & Panchayat Raj,
Ezhilagam, Kamaraj Salai, Chepauk, Chennai - 600 005.

5.The District Collector, Villupuram District, Villupuram.

6.The District Revenue Officer,
Villupuram District, Villupuram.

7.The Revenue Divisional Officer,
Villupuram District, Villupuram.

8.The Tahsildar, Ulundurpet Taluk, Villupuram District.

9.The Block Development Officer (Village Panchayats),
Thirunavalur Panchayat Union,
Villupuram District.

10.The Special Officer/The Block Development Officer (Village
Panchayats),
Kalamarudur Panchayat, Thirunavalur Panchayat Union,
Villupuram District.

+1cc to Mr.V.Jayaprakash Narayanan, Advocate SR.No.63325

+1cc to Mr.B.Abdul Samath, Advocate SR.No.63140

W.P.No.21099 of 2019

GP(CO)
GMY(14/08/2019)