

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.09.2019

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No.25249 of 2019

K.C.Raja

.. Petitioner

Vs.

1.The Secretary to Government
of Tamil Nadu
Department of Revenue and Administration
St. George Fort, Chennai-9.

2.The District Collector
Krishnagiri District
Krishnagiri.

3.The Thasildar
Krishnagiri Taluk Office
Krishnagiri.

4.P.Palani

.. Respondents

Prayer:Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus directing the respondents 1 to 4 to remove encroachments and structure (illegal and un-authorized construction) put-up on the Government land under classification of Government Oodai Poromboke in Survey No.52/1 and also Survey No.43/2 Government Poromboke land in Mittahalli village, Krishnagiri Taluk, Krishnagiri District.

For Petitioner : Dr.G.Babu
For R1 to R3 : Mr.V.Jayaprakash Narayanan
Government Pleader

For R4 : Mr.E.Kannadasan

O R D E R
(Delivered by DR.VINEET KOTHARI,J)

The petitioner filed the present writ petition with the following prayer:

"for issuance of a Writ of Mandamus directing the respondents 1 to 4 to remove encroachments and structure (illegal and un-authorised construction) put-up on the Government land under classification of Government Odai Poromboke in Survey No.52/1 and also Survey No.43/2 Government Poromboke land in Mittahalli village, Krishnagiri Taluk, Krishnagiri District."

2. The learned Government Pleader appearing for the respondents 1 to 3 filed counter affidavit of Tahsildar, Krishnagiri viz., G.Jai Shankar, S/o.Govindarajan, in which he has referred paragraphs-8 and 9 and the same are quoted below:

"8. With regard to the averments made in para-3 of the affidavit, it is submitted that the 4th respondent has encroached some extent of land in S.No.43/2 of the Mittahalli Village. The land S.No.43/2 has been classified as Odai in the Government records. The said encroachment of the 4th respondent in 43/2 has been evicted long back. At present there are no encroachments in the land S.No.43/2 of Mittahalli Village.

9.With regard to the averments made in paras 4 to 11 of the affidavit, it is submitted that the 4th respondent has encroached an extent of 0.02 cent of land in S.No.52/1 of Mittahalli village and constructed a residential terraced house and residing there from the past 2 years. The land S.No.52/1 of Mittahalli Village has been classified as "Odai" in the Government records. The petitioner's residential house lies just adjacent to the encroached portion of house of the 4th respondent. There is path dispute in between the petitioner and the 4th respondent from the past 2 years. There is sufficient pathway is available to house of the petitioner. There is enmity in between the petitioner and the 4th respondent from past 2 years."

3. Learned counsel for the petitioner has submitted that O.S.No.55 of 2019 filed by the petitioner in the District Munsif Court, Krishnagiri, is not for the same relief as stated in paragraph 3 of the counter affidavit filed by the Tahsildar and the same pertains to his own property. Therefore, the present writ petition is filed for removal of encroachment made by the 4th respondent viz., P.Palani, S/o. Perumal Gounder from the Odai Poromboke land near the land owned by the petitioner.

4. We have heard the learned counsel for the parties and upon perusal of the pleadings, it reveals that O.S.No.55 of 2019 is already pending in the Civil Court, adjudication of the same will more conveniently determine the issue of the present case and therefore, we dispose of this writ petition with liberty to the petitioner to implead the Block Development Officer, Kaveripattinam, Krishnagiri District, while the Tahsildhar, Krishnagiri, in the said suit after establishing the said fact that the encroachment has been made by the private respondent viz., Palani, who is already a party in the said suit filed by the petitioner. The trial Court will decide the rights of the respective parties in accordance with law and issue suitable direction in this matter. No order as to costs.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

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To

1.The Secretary to Government
of Tamil Nadu
Department of Revenue and Administration
St. George Fort, Chennai-9.

2.The District Collector
Krishnagiri District
Krishnagiri.

3.The Thasildar
Krishnagiri Taluk Office
Krishnagiri.

+1 CC to Govt. Pleader sr 78975.

W.P.No.25249 of 2019

SJ(CO)
SP(16/10/2019)