

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.11.2019

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

WP.No.31227 of 2019  
and W.M.P.No.31370 of 2019

Padianallur Ooratchi Grama Makkal  
Pothu Nala Sangam  
rep.by its President Mr.S.Innasi  
No.4/707 A.Sri Venkateswara Complex  
Mahalakshmi Nagar Service Road,  
Padianallur, Red Hills,  
Chennai 600 052.

.....Petitioner

Vs

- 1.State of Tamil Nadu  
rep.by its Principal Secretary and  
Commissioner of Land Administration  
Chepauk, Chennai 600 005.
- 2.The District Collector,  
Thiruvallur District, Thiruvallur.
- 3.The District Revenue Officer,  
Thiruvallur.
- 4.The Revenue Divisional Officer,  
Thiruvallur.
- 5.The Tahsildar,  
Ponneri Taluk,  
Thiruvallur District.
- 6.The Commissioner of Police,  
Vepery, Chennai-600 007.

7.Mr.Chandran

8.Mr.Mariappan

..... Respondents

PRAYER:- Writ petition filed under Article 226 of the Constitution of India prays to issue a Writ of Mandamus directing the respondents 2 to 5 to take measures safe-guarding the 'poromboke land' measuring an extent of 44cents in Old Survey No.99/1, New S.Nos.185/2 and 185/3 situated in Padianallur Village, Ponneri Taluk, Thiruvallur District and forbearing the respondents 7 and 8 to put up any construction in view of the order passed by the first respondent dated 08.02.2010 in R.C.No.K1/1/929/2009 declaring the land as 'Government Poromboke Land'.

For Petitioner : Mr.Haja Nazirudeen, Senior Counsel  
for Mr.G.Balraj

For Respondents: Mr.E.Manoharan  
Additional Government Pleader  
for R1 to R6

Mr.P.Raja for R7 & R8

ORDER

[Order of the Court was made by M.SATHYANARAYANAN,J.,]

The writ petition, styled as a Public Interest Litigation, is filed by an Association and according to the petitioners, private respondents 7 and 8 had encroached upon Government Poromboke land admeasuring to an extent of 44 cents in Old Survey No.99/1, New S.No.185/2 and 185/3 situated in Padianallur Village, Ponneri Taluk, Thiruvallur District.

2. Mr.Haja Nazirudeen, learned Senior Counsel assisted by Mr.G.Balraj, learned counsel appearing for the petitioner has drawn the attention of this Court to the counter affidavit of the Tahsildar, Ponneri / 5<sup>th</sup> respondent herein filed in W.P.No.17883 of 2010 and would submit that admittedly Pattas granted in favour of private respondents have not been cancelled and it was confirmed by the Commissioner, Land Administration, Chennai 600 005 and challenging the legality of the same, the 7<sup>th</sup> respondent had filed W.P.No.17883/2010 and it was entertained and interim orders were granted for limited period, vide order dated 26.08.2010 and the said interim order was not extended and despite such a fact, the official respondents have not at all taken any action to reclassify the land and further pointed out

that more construction activities are also going on and the 7<sup>th</sup> respondent has also filed Crl.O.P.No.20860 of 2019 on the file of this Court praying for police custody and the petitioner's Association has also intervened and that apart, he also filed a petition for implementation in WMP.No.29402/2019 in W.P.No.17883 of 2010 and hence prays for appropriate orders.

3. Mr.E.Manoharan, learned Additional Government Pleader, who accepts notice on behalf of respondents 1 to 5, has invited the attention of this Court to the counter affidavit of the 4<sup>th</sup> respondent herein filed in W.P.No.17883 of 2010 and would submit that in the light of the pendency of the writ petition, further action is deferred and also further drawn the attention of this Court to the order dated 22.09.2017 made in W.P.No.24926 of 2017 and though directions have been issued, in the light of the interim order granted in W.P.No.17883 of 2010, no interference can be made.

4. Mr.P.Raja, learned counsel accepts notice on behalf of respondents 7 and 8 and would submit that right, title, and possession of the private respondents have been declared in the judgment dated 15.02.2010 in Second Appeal No.1611 of 2003 (Mr.Elumalai and Mr.S.Viswanathan Vs. Mr.Chandran and Mr.Mariappan) and as such, the said kind of finding cannot be adopted collaterally in these proceedings and would further pointed out that with a malafide motive and for extraneous consideration only, the petitioner Association is prosecuting this Writ Petition and their only intention is to drag the petitioner for the purpose of extracting something and prays for dismissal of this writ petition with exemplary costs.

5. This Court has considered the rival submission and also perused the materials placed before it.

6. The petitioner Association on an earlier occasion filed W.P.No.24926/2017 for issuance of a Writ of Mandamus directing the respondents 2 to 5 to consider the representation of the petitioner dated 1.6.2017 and initiate appropriate measures to remove the encroachments and evict the respondents 6 and 7 from the Government poramboke land measuring an extent of 44 cents (920 Square Metres and 832 Square Metres) comprised in Old Survey No.99/1, new S.Nos.185/2 and 185/3 situated in Padianallur Village, Ponneri Taluk, Tiruvallur District and this Court has disposed of the said Writ Petition on 22.09.2017 and issued the following directions:

"7. In the light of the submissions made before us, we issue the following directions:

- (i) Respondent No.5 before us i.e., the jurisdictional Tahsildar being Tahsildar, Ponneri Taluk, Thiruvallur District will conduct an inspection/survey qua the said land, after putting all concerned on notice, particularly respondents 6 and 7.
- (ii) In the survey/inspection, the said land shall be identified/localized.
- (iii) After identifying/localizing the said land, the jurisdictional Tahsildar being Tahsildar, Ponneri Taluk, Thiruvallur District shall enquire into and ascertain the revenue classification of the said land i.e., as to whether it is Government poramboke land or private land.
- (iv) If it is private land, the matter shall rest there.
- (v) If it is found to be Government land, proceedings for removing all the encroachments qua the said land shall be initiated by respondents 1 to 5 in accordance with law.
- (vi) Inspection/survey referred to supra, shall be conducted within a fortnight from the date of receipt of a copy of this order by respondent No.5.
- (vii) Post inspection/survey, if action for eviction becomes necessary, the same shall be commenced, within a fortnight therefrom i.e., fortnight from the date of inspection/survey, in accordance with law, after putting all concerned on notice, particularly, respondents 6 and 7 before us and conclude the eviction proceedings within a period of two months therefrom.'

8. The learned Single Judge of this Court, in the judgment dated 15.02.2010 in S.A.No.1611 of 2003, in paragraph No.15, observed as follows:

'15. Though the first appellant / first defendant pleaded that the suit property is a Government poramboke, in his written statement, he has not produced any document to prove the same. Apart from the patta proceedings, the appellants have not produced any document to establish their claim. But on the contrary, by adducing oral and documentary evidence, the respondents have proved that they are in possession and enjoyment of the suit property, which is a Grama Natham.

The recitals contained in Ex.A-1 and Ex.A-2 sale deeds clearly establish that the possession of the suit property was handed over to the first respondent/first plaintiff on the date of sale deeds. Since the suit property is admitted as Grama Natham, the occupier of the Grama Natham alone is the owner of the property. The appellants have not produced any document to show that they are in possession of the property or they have title over the suit property. Both the courts below have rightly decreed the suit.'

9. The 7<sup>th</sup> respondent challenging the legality of the order passed by the Commissioner, Land Administration, Chennai 600 005 dated 08.02.2010 and the consequential order of the 4<sup>th</sup> respondent dated 03.08.2010 filed W.P.No.17883 of 2010 and interim orders were granted and the petitioner herein has also filed W.M.P.No.29402 of 2019 to implead himself and that apart with regard to Crl.O.P.No.20860 of 2019, the petitioner has also filed a petition for intervention and in the light of the above facts and circumstances, the relief sought for by the petitioner cannot be granted and if it is open to the petitioner under law, he is at liberty to workout his remedy in the said proceedings.

10. The learned counsel appearing for the private respondents would submit that some construction activities are going on and since it is sought to be prevented at the instance of the petitioner's Association, the 7<sup>th</sup> respondent has filed Crl.O.P.No.20860 of 2019 and it is still pending. It is needless to state that any construction of superstructure, whether it is for residential purpose or for commercial purpose, shall be put up after obtaining planning permission / building permit and the construction shall be made strictly in accordance with the said plan / permit and the learned counsel appearing for the parties also undertakes to do the needful.

11. In the light of the reasons assigned above, relief sought for by the petitioner cannot be granted in this Writ Petition.

12. The writ petition is dismissed, subject to above observations. No costs. Consequently connected miscellaneous petition is closed.

sd/-

Asst.Registrar (CS VII)

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Sub Asst. Registrar

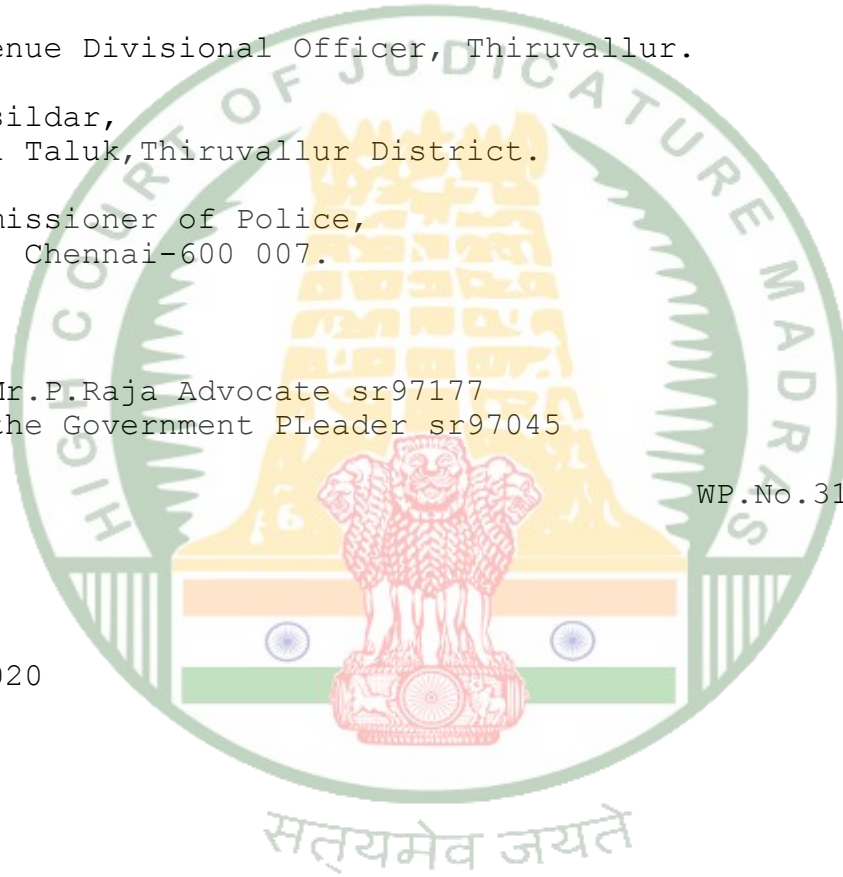
To

- 1.The Principal Secretary and  
Commissioner of Land Administration,  
State of Tamil Nadu  
Chepauk, Chennai 600 005.
- 2.The District Collector,  
Thiruvallur District, Thiruvallur.
- 3.The District Revenue Officer, Thiruvallur.
- 4.The Revenue Divisional Officer, Thiruvallur.
- 5.The Tahsildar,  
Ponneri Taluk, Thiruvallur District.
- 6.The Commissioner of Police,  
Vepery, Chennai-600 007.

+1 cc to Mr.P.Raja Advocate sr97177  
+1 cc to the Government PLeader sr97045

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