

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2019

CORAM :

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

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P. No.32117 of 2018

A.Syed Mohamad

... Petitioner

v.

1 The Secretary to Government of Tamilnadu
Municipal Administration and
Water Supply Department S
St.Geroge Fort
Chennai - 600 009

2 The Director
Directorate of Town Panchayats
Kuralagam
Chennai - 600 108

3 The Executive officer
Gummidipoondi Town Panchayat
Thiruvallur District 601201

4 Subramaniam

.. Respondents

सत्यमेव जयते

Writ Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus, stating that the 4th respondent had built a construction without planning approval document further in the vacant land of the property registered on the name of my father on western side encroached 300 sq.foot land. Therefore in this regard I had forwarded a petition on 18.4.2018 to the 3rd respondent through registered post but the 3rd respondent had not taken any action. It is against law therefore direct the 3rd respondent to immediate action on the above said petition.

For Petitioner : Mr.A.Syed Mohamad
(Party-In-Person)

For Respondents : Mr.V.Jayaprakash Narayanan
Govt. Pleader (i/c) - for R1 to R3

Mr. K.Lavan - for R4

O R D E R

(Order of the Court made by The Hon'ble Chief Justice
and M.DURAISWAMY,J.)

The petitioner has filed the above Writ Petition to issue a Writ of Mandamus, directing the official respondents to take action against the respondent No.4 for the unauthorized construction and for putting up construction in the property belonging to the petitioner's father, by encroaching 300 sq.feet of land.

2. The petitioner appearing in person submitted that the respondent No.4 has encroached 300 sq.feet of land. belonging to his father and put up unauthorized construction. Further, in the affidavit the petitioner has stated that the construction put up by the respondent No.4 is without any planning permission.

3. The respondent No.3/The Executive Officer, Gummidipoondi Town Panchayat, filed a counter affidavit, wherein he has stated that on an inspection made by him and verifying the revenue records, he found that the entire land in Survey Nos.559 and 560 are classified as 'Chatram' belonging to Revenue Department. Further, the respondent No.3 has stated that the petitioner as well as the respondent No.4 cannot claim any ownership of the land under their enjoyment and possession. Further, the respondent No.3 has also stated that the construction put up by the respondent No.4 is more than 50 years old.

4. The learned Government Pleader (i/c), appearing for the respondent Nos. 1 to 3 submitted that the petitioner as well as the respondent No.4 are encroachers and therefore, no indulgence should be shown to them.

5. In view of the categorical statement made by the learned Government Pleader (i/c) to the effect that the petitioner as well as the respondent No.4 are encroachers, the prayer sought for in the Writ Petition to take action against the respondent No.4 for encroaching the petitioner's father land cannot be granted. A person approaching the Court should come to the Court with clean hands. When the petitioner himself is an encroacher, he cannot seek for removal of encroachment made by the respondent No.4. In these circumstances, we are not

inclined to grant the relief sought for in the Writ Petition.
The Writ Petition is devoid of merits and the same is
dismissed. No costs.

Sd/-
Assistant Registrar (CS-IV)

//True copy//

Sub Assistant Registrar

Rj

To

1 The Secretary to Government of Tamilnadu
Municipal Administration and
Water Supply Department S
St.Geroge Fort
Chennai - 600 009

2 The Director
Directorate of Town Panchayats
Kuralagam
Chennai - 600 108

3 The Executive officer
Gummidipoondi Town Panchayat
Thiruvallur District 601201

+1cc to Mr.V.Jayaprakash Narayanan, Advocate SR.No.13927

+1cc to Mr.K.Lavan, Advocate SR.No.15082

+1cc to Mr.A.Syed Mohamed, Party-In-Person SR.No.13782

+1cc to Government Pleader SR.No.14579

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NRL (CO)
GMY (06/03/2019)

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