



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 06.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
and

THE HONOURABLE MR.JUSTICE B.PUGALENDHI
W.P (MD) No.12794 of 2019

A.Sankar Ambedkar

... Petitioner

Vs.

- 1.The District Collector,
Sivagangai District,
Sivagangai.
- 2.The Revenue Divisional Officer,
Sivagangai Revenue Division,
Sivagangai, Sivagangai District.
- 3.The Tahsildar,
Manamadurai Taluk,
Sivagangai District.
- 4.The Block Development Officer,
Manamadurai Panchayat Union,
Manamadurai, Sivagangai District.
- 5.The Assistant Engineer,
Public Works Department (WRO),
Manamadurai, Sivagangai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to remove the encroachments found in Irattai Oorani comprised in Survey No.79 to an extent of 8.50 acres situated at Moongil Oorani Village, Mangulam Group, Manamadurai Post and Taluk, Sivagangai District based on the petitioner's representation, dated 28.02.2019 within the time frame stipulated by this Court.

For Petitioner : Mr.P.Krishnasamy

For RR 1 to 3 & 5 : Mr.J.Gunaseelan Muthiah,
Additional Government Pleader.

For R - 4 : Mr.Aayiram K.Selvakumar

ORDER

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



2.Mr.J.Gunaseelan Muthiah, learned Additional Government Pleader takes notice for the respondents 1 to 3 and 5 and Mr.Aayiram K.Selvakumar, learned counsel takes notice for the fourth respondent.

3.The petitioner claims to be a Public Interest Litigant eking out his livelihood as a farmer and further claims that he is a social worker and also the District President of Dhiyagi Immanuel Peravai of Sivagangai District and the said Association has been established for the purpose of serving not only for the development of downtrodden people and other community and active participation is also done for the development of the people.

4.The main grievance expressed by the petitioner is that the land in Survey No.79 at Moongil Oorani Village, Mangalam Group, Manamadurai Post and Taluk, Sivagangai District is classified as a pond (Oorani Poramboke) and there are very many encroachments on the said land. Despite the said fact being brought to the knowledge of the respondents in the form of various representations, no action whatsoever has been taken and therefore, he is constrained to approach this Court by way of filing this Writ Petition.

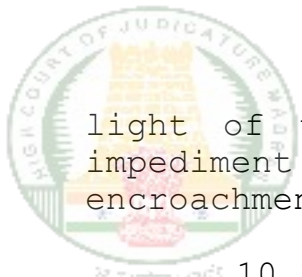
5.Mr.P.Krishnasamy, learned counsel appearing for the petitioner has drawn the attention of this Court to page No.6 of the typed-set of papers and would submit that the office of the third respondent also sent a memo, dated 20.11.2018 in Na.Ka.No.A6/2526/2018, forwarded a copy of the representation directing the Deputy Tahsildar, Head Surveyor, Manamadurai as well as Revenue Inspector, Saikulathur Circle, to cause inspection and sent necessary report and despite a lapse of nearly six months from the date of the said communication, no action whatsoever has been taken by the concerned officials and hence, prays for appropriate orders.

6.Mr.J.Gunaseelan Muthiah, learned Additional Government Pleader appearing for the respondents 1 to 3 and 5 would submit that the concerned land has been classified as "Oorani Poramboke" and there are encroachers including the petitioner also and necessary and immediate action would be taken in accordance with law to evict the encroachers.

7.This Court has carefully considered the rival submissions and perused the materials available on record.

8.It is a settled position of law that once the land has been classified as a water body/water course, there shall not be any encroachments and even encroachments are found, it cannot be regularised and all efforts should be taken to remove the encroachments by following due process of law.

9.A perusal of 'A Register' would disclose that the land in Survey No.79 has been classified as "Oorani Poramboke" and in the



light of the said uncontroverted fact that there cannot be any impediment on the part of the respondents 3 and 4 to remove the encroachments by resorting to due process of law.

10. In the result, this Writ Petition is disposed of and the respondents 3 and 4 are directed to follow the due process of law and also adhere to the principles of natural justice and take appropriate action to remove the encroachments on the land in Survey No.79 at Moongil Oorani Village, Manamadurai Post and Taluk, Sivagangai District, within a period of six weeks from the date of receipt of a copy of this order and communicate the decision taken, to the concerned persons. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The District Collector,
Sivagangai District,
Sivagangai.
 2. The Revenue Divisional Officer,
Sivagangai Revenue Division,
Sivagangai, Sivagangai District.
 3. The Tahsildar,
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 4. The Block Development Officer,
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 5. The Assistant Engineer,
Public Works Department (WRO),
Manamadurai, Sivagangai District.
- +1 CC to SPL GP SR-67386.
+1 CC to MR.P.KRISHNA SAMY, Advocate SR-67533.

W.P (MD) No.12794 of 2019
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CS: (13/06/2019) 3P 8C