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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Tuesday, the Twenty Third day of July Two Thousand and Nineteen
present

The Hon`ble Mr.Justice SATHYANARAYANAN

AND

The Hon`ble Mr.Justice B.PUGALENDHI

WP(MD) . No.17233 of 2018

V.VISWANATHAN

... Petitioner

Vs

1 THE DISTRICT COLLECTOR,
TRICHY DISTRICT, TRICHY 620 001

2 THE REVENUE DIVISIONAL OFFICER,
LALKUDI REVENUE DIVISION, LALKUDI,
TRICHY DISTRICT.

3 THE TAHSILDAR,
LALKUDI TALUK OFFICE, LALKUDI, TRICHY DISTRICT.

4 G.SUBRAMANI

5 K.PALANISAMY

6 S.KANDASAMY

7 R.SARAVANAN

8 R.PONNUSAMY,

9 S.RAJA

10 M.MANI,

11 M.SHANMUGAM

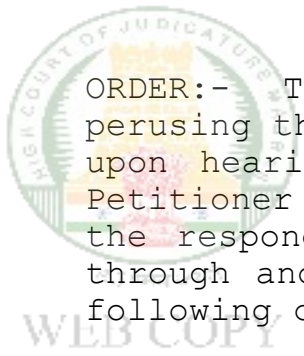
12 P.RAMASAMY,

13 K.RAMAR,

... Respondents

Prayer :-

Writ Petition filed under Article 226 of Constitution of India, to issue of Writ Mandamus, to direct the third respondent to implement his Eviction Notice dated 27.11.2015 against the 4 to 13 respondents and remove the encroachments made by the respondents 4 to 13 on the Vari Poromboke which is meant for irrigation water course in Survey No.312 in Kumulur village, Lalkudi Taluk, immediately so as to protect the traditional water shed management system.



ORDER:- This Petition coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR.D.GURUSAMY, Advocate for the Petitioner and of MR.A.K.BASKARAPANDIAN SPECIAL GOVT. PLEADER, for the respondents Nos.1 to 3 and none appeared either in person or through and Advocate for the Respondent No. 6 this Court made the following order:

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

The petitioner, claims to be a public interest litigant, came forward to file this writ petition alleging among other things that on an earlier occasion, he filed W.P.(MD)No.5539 of 2014 praying for issuing a Writ of Mandamus directing the official respondents 1 to 3 herein to take action and remove encroachments made by private respondents 4 to 13 herein on Vari Poromboke, which is meant for irrigation water course in S.No.312, Kumulur Village, Lalkudi Taluk, for the purpose of protecting the traditional water shed management system. The said writ petition came to be disposed of by a Division Bench of this Court vide order dated 03.08.2015, granting liberty to the petitioner to approach the competent authority as per the relevant Government Order, with a further direction directing the third respondent to consider and pass orders, in accordance with law, at the earliest.

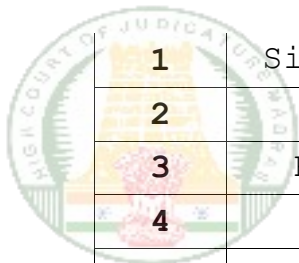
2. It is further averred by the petitioner that some of the encroachers, aggrieved by the notice issued for removal of encroachment, had filed W.P.(MD)Nos.22819 to 22821 of 2015 and all the writ petitions came to be dismissed vide common order dated 22.06.2017 and despite that, no action has been taken by the concerned official respondents to remove the encroachments and therefore, he is constrained to approach this Court by filing this writ petition.

3. The writ petition was entertained and was disposed of vide order dated 05.03.2019, directing the Tahsildar concerned to file a report of compliance.

4. When this writ petition was listed for reporting compliance on the earlier occasion, this Court directed the Revenue Divisional Officer, Lalgudi Taluk, Trichy District and the Tahsildar, Lalgudi Taluk to remain personally present before this Court with affidavits of compliance on the next date of hearing and accordingly, Mrs.C.Christy, Revenue Divisional Officer (i/c), Lalgudi, Trichy District and Mr.S.Sathiabala Gangatharan, Tahsildar, Lalgudi, Trichy District personally remained present before this Court today, with the affidavits of compliance.

5. It is relevant to extract Paragraph No.4 of the compliance report, which reads as under:

S.No	Name of the Encroachers	Survey No.	Extent (in Hectare)	Nature of encroachment
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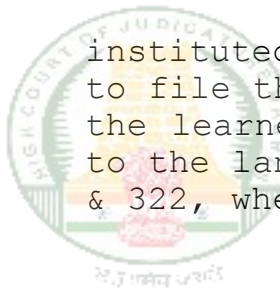
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1	Sivapackiam	312	0.01.0	Asbestos House
2	Vadivel	312	0.01.0	Asbestos House
3	Ramasamy	312	0.01.0	Thatched House
4	Ramar	312	0.01.0	Thatched House
5	Ponnusamy	312	0.01.0	Tiled House
6	Subramanian	312	0.01.0	Thatched House
7	Saravanan	312	0.01.0	Asbestos House
8	Palanichamy	312	0.01.0	Thatched House
9	Aarayee	312	0.01.0	Thatched House
10	Devi	312	0.01.0	Thatched House
11	Chandra	312	0.01.0	Asbestos House
12	Mallika	312	0.01.0	Concrete House
13	Viswanathan	312	0.01.0	Bore well and fencing
14	Devi W/o.Durairaj	312	0.01.0	Thatched House
15	Ponnusamy	322	0.01.0	Asbestos House and Sugarcane cultivation
16	Dhanaraj	322	0.01.0	Agriculture
17	Arivalagan	322	0.01.0	Fence
18	Thamilarasan	322	0.01.0	Fence
19	Viswanathan	322	0.01.0	Sugarcane cultivation

6. Mr.A.K.Baskarapandian, learned Special Government Pleader would submit that the writ petitioner himself is guilty of encroachment for the reason that he had encroached upon the lands in S.Nos.312 & 322, admeasuring to an extent of 0.01.0 Hectare, each and put up a bore well with fencing and is cultivating sugarcane and the said fact has been deliberately burked in the affidavit filed in support of the writ petition and further drawn the attention of this Court to paragraph No.5 of the affidavits of compliance and would submit that all the encroachments have been removed on 19.07.2019 and 20.07.2019.

7. The learned Special Government Pleader appearing for the official respondents, on instructions, would further add that since all the encroachments, including the petitioner, have been removed on 19.07.2019 and 20.07.2019, respectively, there will not be any re-encroachment or fresh encroachment on the lands and the said submission, on instruction, is placed on record.

8. In response to the said submission, the learned Counsel appearing for the petitioner would submit that he has also



instituted a civil proceeding and sought for a short accommodation to file the typed set of documents. However, it is the submission of the learned Special Government Pleader that the civil suit pertains to the land in S.No.318 and not in respect of the lands in S.Nos.312 & 322, wherein the petitioner is also one of the encroachers.

9. In the light of the above said facts and circumstances and also the affidavits of compliance dated 23.07.2019 filed by the Revenue Divisional Officer, Lalgudi, Trichy as well as Tahsildar, Lalgudi, Trichy, this Court is of the considered view that no further orders are required to be passed in this writ petition. However, the official respondents shall ensure that there shall not be any re-encroachment or fresh encroachment on the lands which have been referred to in Paragraph No.4 of the affidavits of compliance dated 23.07.2019. The personal appearance of the Revenue Divisional Officer (i/c), Lalgudi, Trichy as well as Tahsildar, Lalgudi, Trichy are also dispensed with.

Sd/-

Assistant Registrar (CS II)

// True Copy //

Sub Assistant Registrar(CS)

TO

1. THE DISTRICT COLLECTOR,
TRICHY DISTRICT, TRICHY 620 001.
2. THE REVENUE DIVISIONAL OFFICER,
LALKUDI REVENUE DIVISION, LALKUDI, TRICHY DISTRICT.
3. THE TAHSILDAR,
LALKUDI TALUK OFFICE, LALKUDI, TRICHY DISTRICT.

Copy to:

The Section Officer,
Writ Section,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/s.Special Government Pleader,SR.No. 77258

ORDER DATED : 23/07/2019

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ORDER

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WP(MD) . No.17233 of 2018

Giving direction and etc.
as stated within.