



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 26.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI

W.P. (MD) No.875 of 2019

Krishnan

... Petitioner

-vs-

- 1.The District Collector,
Sivagangai District.
- 2.The Commissioner,
Kalayarkovil Panchayat Union,
Kalayarkovil,
Sivagangai District.
- 3.The Tahsildar,
Sivagangai Taluk.
- 4.The Regional Deputy Tahsildar,
Okkur,
Sivagangai Taluk and District.
- 5.The Revenue Inspector,
Okkur,
Sivagangai Taluk and District.
- 6.The Village Administrative Officer,
Karungalankudi Village,
Sholapuram Group,
Sivagangai Taluk and District.
- 7.Vellai Kannu

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 6 herein to remove the illegal construction put up by the 7th respondent in S.No.65/3A of Karungalankudi Village, Sivagangai Taluk and District on the basis of instructions issued by the Tahsildar, Sivagangai Taluk and District dated 16.11.2018 within the time stipulated by this Hon'ble Court.



For Petitioner	: Mr.B.Santhanam Rajeshkumar
For Respondents 1, 3 to 6	: Mr.M.Murugan Government Advocate
For 2 nd Respondent	: Mr.J.Gunaseelan Muthiah
For 7 th Respondent	: Mr.V.Janakiramulu

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O R D E R

[Order of the Court was made by T.S.SIVAGNANAM, J.]

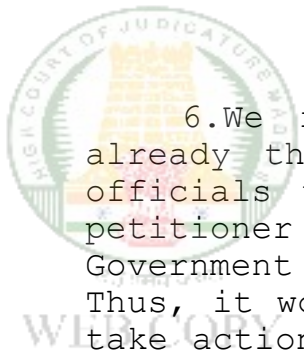
Heard Mr.B.Santhanam Rajeshkumar, learned counsel appearing for the petitioner and Mr.M.Murugan, learned Government Advocate appearing for the respondents 1 and 3 to 6, Mr.J.Gunaseelan Muthiah, learned Standing Counsel for the second respondent and Mr.V.Janakiramulu, learned counsel appearing for the 7th respondent.

2.By consent on either side, this Writ Petition itself is taken up for final disposal.

3.The Writ Petition has been filed praying for issuance of a Writ of Mandamus, directing the respondents 1 to 6 herein to remove the illegal construction put up by the 7th respondent in S.No.65/3A of Karangalankudi Village, Sivagangai Taluk and District on the basis of instructions issued by the Tahsildar, Sivagangai Taluk and District dated 16.11.2018 within a time frame, alleging that the 7th respondent has encroached upon the Government land.

4.The 7th respondent is before this Court and he contended that he has filed a suit in O.S.No.142 of 2007 on the file of the learned District Munsif, Sivagangai praying for a decree of permanent injunction, restraining the defendants and their men from in any way interfering with the peaceful possession and enjoyment of the plaintiff's family. The fourth defendant Boss therein is none other than the brother of the 7th respondent herein and the suit was decreed on the ground that the land being grama natham land, in which the 7th respondent herein has put up constructions and residing therein. The revenue records shows the classification of the land as unoccupied Government land. Thus, according to the learned counsel appearing for the 7th respondent, the grama natham land can be used for construction of house.

5.We have perused the judgment in O.S.No.142 of 2007 and we find that the defendants 3 and 4 therein were called absent and set exparte and the suit has been partly decreed by granting a decree of permanent injunction against the official defendants, viz., the District Collector, Sivaganga District and the Commissioner, Kalaiyarkoil Panchayat Union not to evict the plaintiff/7th respondent herein without following due process of law.



6.We find from the documents placed before this Court that already the Tahsildar has issued direction to the local revenue officials to take appropriate action on the representation of the petitioner stating that the 7th respondent has encroached into Government land. However, no action has been taken pursuant to that. Thus, it would be a futile exercise to direct respondents 4 to 6 to take action. Hence, the third respondent himself has to take action in accordance with law.

7.Accordingly, the Writ Petition is disposed of by directing the third respondent to issue show cause notice to the 7th respondent, calling for his objections and after considering the objections and perusing the revenue records the third respondent shall take action in accordance with law within 8 weeks from the date of issue of show cause notice. No costs.

Sd/-

Assistant Registrar (crl.side)

// True Copy //

Sub Assistant Registrar(CS)

To

- 1.The District Collector,
Sivagangai District.
- 2.The Tahsildar,
Sivagangai Taluk.
- 3.The Regional Deputy Tahsildar,
Okkur,
Sivagangai Taluk and District.
- 4.The Revenue Inspector,
Okkur,
Sivagangai Taluk and District.
- 5.The Village Administrative Officer,
Karungalankudi Village,
Sholapuram Group,
Sivagangai Taluk and District.
- 6.The Commissioner,
Kalayarkovil Panchayat Union,
Kalayarkovil,
Sivagangai District.



+1 CC to Mr.J.GUNASEELANMUTHIAH, Advocate (SR-90274[F] dated 30/09/2019)
+1 CC to Spl.GP (SR-90219[F] dated 27/09/2019)
+1 CC to Mr.B.SANTHANAM RAJESH, Advocate (SR-90388[F] dated 30/09/2019)
+1 CC to Mr.V.JANAKIRAMULU, Advocate (SR-90515[F] dated 30/09/2019)

W.P. (MD) No.875 of 2019
26.09.2019

sj

MK (18.10.2019) 4P 11C