



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.08.2019

CORAM:

THE HON'BLE MR.JUSTICE K.RAVICHANDRABAABU
and
THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P. (MD) No.16385 of 2019

and

W.M.P. (MD) No.13078 of 2019

Sangili

... Petitioner

Vs.

- 1) The District Collector,
Collectorate,
Virudhunagar.
- 2) The Tahsildar,
Taluk Office,
Srivilliputhur,
Virudhunagar District.
- 3) The Block Development Officer,
Special Officer,
Athikulam Sengulam Panchayat,
Srivilliputhur,
Virudhunagar District.
- 4) P.Arjunan
- 5) Palpandi

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records relating to the notice dated 10.07.2019 in Na.Ka.Pi.1/60/2018 issued by the 3rd respondent and quash the same.

For Petitioner : Mr.N.Mohan

For RR 1 - 3 : Mr.M.Karuppasamy,
Government Advocate

For R4 : Mr.J.Jeyakumaran

<https://hcservices.ecourts.gov.in/hcservices/> : Mr.M.Pandian

**O R D E R**

(Order of the Court was made by **K.RAVICHANDRABAABU, J.**)

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The petitioner is aggrieved against the notice dated 10.07.2019 issued by the third respondent. Through the said notice, the petitioner and 22 others are called upon to remove the encroachment made in S.Nos.312/21 and 312/15 of Athikulam village, Athikulam Sengulam Panchayat Union.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the official respondents and the learned counsel appearing for the private respondents.

3. The case of the petitioner is that the impugned notice was issued without conducting proper survey to find out as to whether the encroachment is made by the petitioner as alleged in the impugned notice or not. Thus, it is contended that only when a proper survey is conducted in respect of the properties situated at S.No.312/21 and the road situated at S.No.312/15, the fact will come to light as to whether the allegation made in the impugned notice is true or not.

4. On the other hand, the learned counsel appearing for the fourth respondent contended that in an earlier writ petition filed by the fourth respondent in W.P.(MD) No.24336 of 2018, this Court by an order dated 11.12.2018 directed the Tahsildhar to consider the representation of the fourth respondent herein dated 07.11.2018 and after issuing notice to the encroacher and also affording an opportunity of personal hearing to them, pass appropriate orders by conducting an enquiry and if the official respondents finds any encroachment, to remove the same in accordance with law. Therefore, he contended that in view of the order passed in the above writ petition, the impugned notice is rightly issued by the third respondent.

5. The learned Special Government Pleader appearing for the official respondents submitted that since there are encroachments made by the noticees, they have to be removed in compliance of the order passed by this Court in W.P.(MD) No.24336 of 2018, and however, the Tahsildhar is ready and willing to survey the properties and earmark the encroached portion so that, further appropriate action for removal of the encroachment can be taken.

6. Though we find that an order was passed by this Court in the earlier writ petition filed by the fourth respondent herein as stated supra, it is seen from the said order that a direction was issued to the official respondents therein to remove the encroachment in accordance with law only when he finds any



encroachment. Needless to say that when it is disputed by the petitioner that no encroachment is made by him, it is better for the Revenue Tahsildar to conduct a survey with the help of Taluk Surveyor and earmark the portion, where the encroachment alleged to have been made by the respective parties at S.Nos.312/21 and 312/15 Athikulam village.

7. Therefore, this Writ Petition is disposed of by directing the second respondent Tahsildar to conduct survey of the properties situated at S.Nos.312/21 and 312/15 to find out the actual portion of encroachment and thereafter proceed to remove the encroachment in accordance with law. Such exercise shall be done by the second respondent within a period of four(04) weeks from the date of receipt of a copy of this order. The petitioner as well as respondents 4 & 5 shall cooperate with the second respondent to conduct survey and implement the order made in this writ petition. No costs. Consequently, connected W.M.P.(MD)No.13078 of 2019 is closed.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

Sub Assistant Registrar(CS)

To

- 1) The District Collector,
Collectorate, Virudhunagar.
- 2) The Tahsildar,
Taluk Office,
Srivilliputhur,
Virudhunagar District.
- 3) The Block Development Officer,
Special Officer,
Athikulam Sengulam Panchayat,
Srivilliputhur, Virudhunagar District.

+1 CC to M/s.M. PANDIAN, Advocate (SR-83397[F] dated 26/08/2019)

+1 CC to M/s.J.JEYAKUMARAN, Advocate (SR-83635[F] dt.27/08/2019)

+1 CC to M/s.SPL GP (SR-83570[F] dated 27/08/2019)

Order made in
W.P.(MD) No.16385 of 2019
Dated: 26.08.2019