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BEFORE THE MADURAI BENCH OF THE MADRAS HIGH COURT

DATE : 22.08.2019

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
AND

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P. (MD) NO. 18254 OF 2019

AND

W.M.P. (MD) NO.14699 OF 2019

S.Michael

.. Petitioner

- Vs -

1. The District Collector
Sivagangai District.
2. The Superintendent of Police
Sivagangai District.
3. The Revenue Divisional Officer
Sivagangai District.
4. The Block Development Officer
O/o Ilayankudi Panchayat
Ilayankudi, Sivagangai District.
5. The Asst. Commissioner
Hindu Religious & Charitable Endowment
Paramakudi.
6. The Joint Commissioner
Hindu Religious & Charitable Endowment
Sivagangai District.
7. The Tahsildar
Ilayankudi Taluk, Sivagangai District.

W.P.No.18254/2019



8. The Executive Officer
Ilamanoor Panchayat
Ilamanoor, Ilayankudi Taluk
Sivagangai District.

9. The Inspector of Police
Ilayankudi Police Station
Sivagangai District.

10. Sathaiya Velar

11. Rajkumar

12. Ilango

13. Malairaj

14. Santholiyan

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of mandamus for the relief of declaration to declare the government poramboke land in Survey No.135/9 an extent of 90 cents in Gunappanenthal Village, Ilayankudi Taluk, Sivagangai District, is for general public utility and consequently direct the respondent Nos.1, 3, 4, 7 & 8 to restore the utility of two overhead water tanks, water supply, motor room, paddy husking field, TV room, bathing facility, bus stop, shelter, play ground for the welfare of the Gunappanenthal Village people by removing the iron mesh fencing laid by the respondent Nos.5, 6, 10 to 14 in survey No.135/9 an extent of 90 cents of Gunappanenthal Village, Ilayankudi Taluk, Sivagangai District, by considering the petitioner's representation dated 1.8.19 within the period stipulated by this Hon'ble Court.

For Petitioner : Mr. A.Haja Mohideen

For Respondents : Mr. A.K.Baskarapandian, Spl. G.P.
For RR-1 to 3
Mr.V.R.Shanmuganathan for R-4
Mr.C.M.Marichelliah Prabhu for RR-7 to 9

ORDER

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

The petitioner, who claims to be a public interest litigant and an ex-army personnel, came forward to file this writ petition alleging among other things that the land in survey No.135/9, admeasuring to an extent of 90 cents in Gunappanenthal Village, Ilayankudi Taluk, Sivagangai District, is classified as Government poramboke wherein two overhead water tanks, water supply, motor room, paddy husking field, TV room, bathing facility, bus stop shelter have been put up and a temple is also located and some Hindu organisation is trying to get patta in respect of the land in survey



No.135/9 and in this regard, the village people had also filed O.S. No.40/2002 before the jurisdictional civil court and the suit was dismissed on 21.10.18 with an observation that in the event of any disturbance to any individual, the concerned individual is entitled to approach the Government for appropriate orders.

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2. Learned counsel appearing for the petitioner submits that despite the land having been classified as Government poramboke, some unscrupulous elements are trying to get patta and it is also leading to communal tension and, therefore, prays for appropriate orders.

3. Mr.A.K.Baskarapandian, learned Special Government Pleader takes notice for respondents 1 to 3; Mr.V.R.Shanmuganathan, learned counsel takes notice for respondent 4 and Mr.Mari Chelliah Prabhu, learned counsel takes notice for respondents 7 to 9.

4. Learned Special Government Pleader has drawn the attention of this Court to the typed set of documents and submits that one Arokiasamy, who is also a resident of the same village, filed W.P. (MD) No.6644/2019 praying for issuance of writ of mandamus to dispose of his representation with regard to the very same land in survey No.135/9 and since this writ petition is also filed for the same relief, it is not maintainable and, hence, prays for dismissal of the writ petition.

5. This Court has carefully considered the rival submissions and also perused the materials available in the typed set of documents.

6. A perusal of the affidavit filed in support of W.P. (MD) No.6644/2019 disclose that a resident of Gunappanenthal Village, one Arokiasamy, has filed the said writ petition making almost the very same allegations and, therefore, in respect of the very same cause of action, this writ petition, at the behest of the petitioner, is not maintainable. However, taking into consideration the plea made by the learned counsel for the petitioner, this Court permits the petitioner herein to implead himself as a party in W.P. (MD) No.6644/2019 and work out his remedies in accordance with law.

7. This writ petition is dismissed subject to the above observation. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar

/TRUE COPY/

Sub Assistant Registrar



To

1. The District Collector
Sivagangai District.
2. The Superintendent of Police
Sivagangai District.
3. The Revenue Divisional Officer
Sivagangai District.
4. The Block Development Officer
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Ilayankudi, Sivagangai District.
5. The Tahsildar
Ilayankudi Taluk, Sivagangai Dt.
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Ilamanoor, Ilayankudi Taluk
Sivagangai District.
7. The Inspector of Police
Ilayankudi Police Station
Sivagangai District.

+1 CC to M/s.A. HAJA MOHIDEEN, Advocate (SR-83009[F] dated 22/08/2019)

+1 CC to M/s.SPL GP (SR-83348[F] dated 26/08/2019)

W.P. (MD) NO. 18254 OF 2019
22.08.2019

gln

JM/13.09.2019/4P/10C