



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE R.THARANI

W.P.[MD]No.22919 of 2019

AND

WMP No.19656 AND 19658 of 2019

Draviyam

: Petitioner

Vs.

- 1.The District Collector,
Virudhunagar District,
Virudhunagar.
- 2.The District Revenue Officer,
Virudhunagar District,
Virudhunagar.
- 3.The Revenue Divisional Officer,
Sivakasi Revenue Division,
Sivakasi,
Virudhunagar District.
- 4.The Tahsildar,
Sivakasi Taluk,
Sivakasi,
Virudhunagar District.
- 5.The Block Development Officer,
Sivakasi,
Virudhunagar District.
- 6.Pandi
- 7.Avudaiyammal
- 8.Karuppasamy

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the fourth respondent in Mu.Mu.Aa.1/5143/2018 dated 13.12.2018 and the third respondent's consequential order in Mu.Mu.A.1/133/2019, dated 22.07.2019, the fifth respondent's intimation notice in Na.Ka.No.B3/811/2019, dated 25.09.2019 and quash the same and further direct the fourth respondent to conduct reasonable opportunity to the petitioner to hear his case regarding issuance of patta.



For Petitioner : Mr.S.M.Anantha Murugan
For Respondents 1 to 4 : Mr.A.Muthukaruppan
Additional Government Pleader
For Respondent No.5 : Mr.S.Angappan
Government Advocate

O R D E R

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

By consent of both parties, the Writ Petition is taken up for disposal at the admission stage itself.

2.Heard Mr.S.M.Anantha Murugan, learned Counsel appearing on behalf of the petitioner, Mr.A.Muthukaruppan, learned Additional Government Pleader appearing on behalf of respondents 1 to 4 and Mr.S.Angappan, learned Government Advocate appearing on behalf of the fifth respondent.

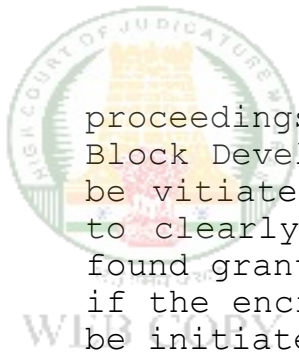
3.The petitioner is aggrieved by the proceedings issued by the third respondent dated 22.07.2019 on the ground that no enquiry was conducted, no notice was issued to the petitioner, no site inspection was conducted and no survey was conducted.

4.From the records placed before this Court, we are able to see that the petitioner's son was issued with the notice and was enquired into and was unable to produce any document that he has got title over the area where certain structures have been put up. After considering these aspects, proceedings dated 25.09.2019 has been drawn and it has been communicated to one Sankaran, son of the petitioner herein and one Karuppasamy, who was the writ petitioner in the earlier writ petition which was filed to remove the encroachment. Thereafter, the petitioner has given representation on 22.01.2019 and after considering the same, the impugned order has been passed.

5.The learned Counsel for the petitioner submitted that there is absolutely not an inch of encroachment in the Kalam, but, the authorities have erroneously stated that there is an encroachment.

6.It is not clear as to why the petitioner has filed this writ petition when all appropriate proceedings were in the name of his son Sankaran. In fact, Sankaran has participated in the enquiry and also given statement. He was unable to produce any documents to substantiate that he has title over the area which according to the respondents has been classified as pathway, Natham vacant land, road and Kalam. Considering all these aspects, the impugned order has been passed and notice has been issued by the Block Development Officer, Sivakasi dated 25.09.2019.

7.In our considered view, there is no error in the



proceedings dated 22.07.2019. The consequential notice issued by the Block Development Officer dated 25.09.2019, cannot also be stated to be vitiated in any manner. However, we direct the fifth respondent to clearly indicate the nature of encroachment and if the same is found grant reasonable time to the petitioner to remove the same and if the encroachment is not removed by the petitioner himself, action be initiated departmentally.

8.Learned Counsel for the petitioner submitted that the eighth respondent who had made a complaint against the petitioner and filed earlier writ petition, himself is an encroacher. This aspect shall also be taken note of by the fifth respondent and if there is any such encroachment, the same shall be removed after issuing notice to the encroacher.

9.During the course of argument, learned Counsel for the petitioner submitted that the Kalam area is covered by bushes and most of the villagers have been using the area as a public convenience. The learned Counsel submitted that he is well aware of the fact because his native village is located very close by to the village in question. If this is the state, the authorities should take appropriate action more particularly when we are celebrating 150 years of Mahatma Gandhi, who has said that open defecation in India should be put an end to. We are aware of the fact that the State Government has certain policies to sensitise the people to construct toilets in houses. This issue may be taken serious note of by the District Collector and necessary steps be taken to construct toilets in the village in question.

10.With the above directions, the Writ Petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

Sub Assistant Registrar(CS)

MR

To

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2.The District Revenue Officer,
Virudhunagar District,
Virudhunagar.



3.The Revenue Divisional Officer,
Sivakasi Revenue Division,
Sivakasi,
Virudhunagar District.

4.The Tahsildar,
Sivakasi Taluk,
Sivakasi,
Virudhunagar District.

5.The Block Development Officer,
Sivakasi,
Virudhunagar District.

+1 CC to M/s.S.M.ANANTHA MURUGAN, Advocate (SR-95173[F] dated
31/10/2019)

+1 CC to M/s.SPL GP (SR-95470[F] dated 01/11/2019)

Order made in
W.P. [MD]No.22919 of 2019
Dated: 30.10.2019

KK/SAR/26.11.2019/4P-8C/