

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.02.2020

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

W.P.No.3925 of 2020

K.Ayyasamy

... Petitioner

Vs

1. The Additional Chief Secretary,
to Government,
Secretariat,
Fort St.George, Chennai 600 009.
2. The District Collector,
Thiruvallur District, Thiruvallur.
3. The Tahsildar,
Ambattur Taluk, Ambattur,
Chennai 600 058.
4. The Section Officer,
Public Works Department,
Water Resources Organisation,
Red Hills,
Chennai 600 052.

5. The Engineer in chief and Chief Engineer,
Water Resources Organisation,
Public Works Department,
Chepauk,
Chennai 600 052.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents not to demolish the superstructure constructed in the petitioner's patta land in survey Nos.578/1A, 578/1B and 578/2 while carrying the eviction activity in the adjacent poromboke land in survey number 582/2A in pursuance of notice issued to the petitioner dated 27.01.2020.

For Petitioner : Mr.Jerry V.V.Sundar

For Respondents: Mr.V.Shanmuga Sundar
Special Govt.Pleader

O R D E R

[Order of the Court was made by R.SUBBIAH, J]

The petitioner has filed the above Writ Petition praying for issuance of a Writ of Mandamus to direct the respondents not to demolish the superstructure constructed in the petitioner's patta land in Survey Nos.578/1A, 578/1B and 578/2 while carrying the eviction activity in the adjacent poromboke land in Survey Number 582/2A in pursuance of notice issued to the petitioner dated 27.01.2020.

2. It is the case of the petitioner that in the year 1989, he had purchased 1202 sq.ft of land in Plot No.3, comprised in survey numbers 578/1A, 578/1B and 578/2 and constructed a house. While so, one Mala had filed W.P.Nos.29851 and 29904 of 2019 challenging eviction from her property which falls within the objectionable water course poromboke land in Ambattur Taluk. This Court, vide order dated 21.10.2019, while dismissing the writ petition filed by Mala, directed the second respondent herein to file a status report and remove all encroachments in Survey No.582/2 in Ambattur Taluk and Village, Tiruvallur District as well as in other lands in the very same village/place, which are classified as water body. On 16.12.2019, the fourth respondent had issued a show cause notice stating that around 0.0045 sq.ft of land is encroached by him and sought for a reply. On 31.12.2019, the petitioner gave a suitable reply along with the copies of his sale deed, show cause notice and property tax receipts. Thereafter, he received a notice dated 27.01.2020 from the fourth respondent stating that the encroachments will be demolished after 21 days from the date of receipt of the said notice. Survey Nos.578/1A, 278/1B and 578/2 are classified as "Manavari" and he has patta for the same. In this connection, it is pertinent to state that the Tamil Nadu Government formed a housing scheme in the Ayapakkam Village having about ten thousand houses stated to be a largest housing scheme. In fact, his property lies far away from the tank bund and is in fact separated by a main road. Under these circumstances, the petitioner has come forward with the present writ petition.

3. The learned counsel for the petitioner submitted that the petitioner himself undertakes to demolish the encroachment made in Survey Nos.578/1A, 278/1B and 578/2 in Ambattur Taluk and Village, Tiruvallur District as per the notice issued by the fourth respondent.

4. Considering the above submission made by the learned counsel for the petitioner that the petitioner himself undertakes to demolish the encroachment, this Court directs the petitioner to demolish the encroachment made in S.Nos.578/1A, 278/1B and 578/2 within a period of four weeks from today (20.02.2020). In the event of failure to demolish the encroachment the respondents are at liberty to proceed further in accordance with law against the said encroachment.

5. With the above direction, the writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

dpq

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to Government,
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+1cc to M/s.Jerry, Advocate SR.No. 14552

A.SK(28/05/2020)

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