

IN THE HIGH COURT OF JUDICIATURE AT MADRAS

DATED : 19.02.2020

CORAM :

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

W.P.No.11095 of 2019

Rajiv Nagar Residential Welfare Association,
Represented by its President,
M.Ramaswamy,
S/o.Manickam,
No.3, First Street, Rajiv Nagar,
Nemilichery, Poonamallee Taluk,
Thiruvallur District - 602 024. ...

Petitioner

versus

1. The District Collector,
Thiruvallur District,
Thiruvallur - 602 001.
2. The Tahsildar,
Avadi Taluk,
Thiruvallur District,
Avadi - 600 054.
3. The Project Director,
District Rural Development Agency,
Thiruvallur - 602 001.
4. The Block Development Officer,
Poonamallee - 600 056.
Thiruvallur District.
5. The Special Officer,
Block Development Office,
Thiruvallur District, Poonamallee - 600 056.
6. M.Thairiya Nathan ...

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents 1 to 5 to remove the encroachment made by the sixth respondent in the land allotted for park in S.No.108/2B forming part of the approved Layout of "Rajiv Nagar", Nemilichery, Poonamallee Taluk, Thiruvallur District.

For Petitioner : Mr.K.P.Magesh Kumar

For Respondent Nos.1 to 3 : Mr.K.S.Suresh
Government Advocate

For Respondent Nos.4 & 5 : Mr.V.Jayaprakash Narayanan

For Respondent No.6 : No Appearance

ORDER

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

The petitioner has come up with the present Writ Petition praying for issuance of a Writ of Mandamus to direct the respondents 1 to 5 to remove the encroachment made by the sixth respondent in the land allotted for Park in S.No.108/2B, forming part of the approved Layout of "Rajiv Nagar", Nemilichery, Poonamallee Taluk, Thiruvallur District.

2. The case of the petitioner is that he is the President of Rajiv Nagar Residential Welfare Association, Nemilichery, Poonamallee Taluk, Thiruvallur District, which is a registered Association bearing Registration No.404/2007. The Layout is in the name and style of "Rajiv Nagar", was originally formed in the year 1987. In the said approved Layout, several houses have been constructed and many residents have been living since 1990. The land in Survey No.108/2B measuring an extent of 65 cents forming part of the said Layout, was allotted for the public purpose of establishing a Park for the residents of Rajiv Nagar. However, no proper Park has been established in the said land and the same is still lying vacant and it was used as a ground by the children of the locality for playing and the said piece of land is in ostensible usage as a Park by the residents of Rajiv Nagar.

3. While so, the sixth respondent herein, who is residing adjacent to the land allotted for the Park, has built up a compound wall and in the process, he encroached in the Park area to an extent of more than 15 feet. Despite the objections of the residents, he proceeded to put up the said compound wall by encroaching the land allotted for Park in the approved Layout. Since the sixth respondent has strong political background, he threatens the residents and therefore, most of the residents remained silent. However, the petitioner made several representations to the authorities concerned on 02.02.2018, 05.02.2018, 12.03.2018 and 02.04.2018. Pursuant to the repeated complaints made by the petitioner, the fifth respondent, in his proceedings dated 08.02.2018, sent a communication to the second respondent requesting him to depute a Surveyor to survey and measure the boundaries of the said land allotted to the Park in S.No.108/2B. The second respondent, in and by his proceedings dated 05.04.2018, informed the fifth respondent that the Park area has been encroached. In spite of the same, no action was taken by the respondents 1 to 5 and hence, the petitioner is before this Court with the present Writ Petition for the relief stated supra.

4. Heard the learned counsel appearing for the petitioner as well as the learned Government Advocate appearing for the respondents 1 to 3 and the learned counsels appearing for the respondents 4 and 5 and also perused the materials available on record.

5. Notice sent to the sixth respondent through Court and privately, returned with an endorsement "refused" and hence, this Court directed the Registry to print the name of the sixth respondent in the cause list. Even though the name of the sixth respondent was printed in the cause list, he has not chosen to appear before this Court and hence, this Court is constrained to pass the following order:-

"The respondents 1 to 5 are directed to initiate action against the sixth respondent to remove the encroached Park area, by issuing a notice to the sixth respondent and pass appropriate orders, on merits and in accordance with law, after giving an opportunity of personal hearing to him as well as to the petitioner, within a period of eight (8) weeks from the date of receipt of a copy of this order."

6. With the above observations and direction, the Writ Petition is disposed of. However, there is no order as to costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

sri

To

1. The District Collector,
Thiruvallur District,
Thiruvallur - 602 001.
2. The Tahsildar,
Avadi Taluk,
Thiruvallur District,
Avadi - 600 054.
3. The Project Director,
District Rural Development Agency,
Thiruvallur - 602 001.
4. The Block Development Officer,
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5. The Special Officer, सतयमेव जयते
Block Development Office,
Thiruvallur District,
Poonamallee - 600 056.

+6cc to Mr.K.P.Magesh Kumar, Advocate, S.R.No.14133

W.P.No.11095 of 2019

VD(CO)
KKV/20/03/2020