



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07.01.2020

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

and

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

W.P. No.13016 of 2018 and W.M.P. No.15295 of 2018

St. Anthony's Matriculation Higher Secondary School,
rep. by the Correspondent Mr.Vincent Arockiaraj .. Petitioner
Vs.

1.The District Collector,
Office of the Collectorate,
Thiruvarur District.

2.The Revenue Divisional Officer,
Thiruthuraipoondi Taluk,
Thiruthuraipoondi,
Thiruvarur District.

3.The Tahsildar,
Thiruthuraipoondi Taluk,
Thiruthuraipoondi,
Thiruvarur District.

4.The Superintendent of Police,
Thiruthuraipoondi Range,
Thiruvarur District.

5.The Deputy Superintendent of Police,
Thiruthuraipoondi Range,
Thiruvarur District.

6.Kalaimani

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a writ of mandamus directing the respondents 1 to 3 to remove the encroachment made by the sixth respondent and others in the 30 feet Arasaladi Street and to initiate appropriate legal action against them and consequently forbearing the 6th respondent and others from unlawfully interfering or in any manner prohibiting the school students, parents, vehicles and school vehicles from using the 30 feet Arasaladi Street.



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For petitioner : Mr.Vimal B.Crimson
For respondents: Mr.V.Shanmuga Sundar,
Special Government Pleader
for R1 to R5

Mr.S.Kothandaraman for R6

ORDER

(Order of this Court was made by R.SUBBIAH,J.)

The writ petition has been filed for mandamus directing respondents 1 to 3 to remove the encroachment made by the sixth respondent and others in the 30 feet Arasaladi Street and to initiate appropriate legal action against them and consequently forbearing the 6th respondent and others from unlawfully interfering or in any manner prohibiting the school students, parents, vehicles and school vehicles from using the 30 feet Arasaladi Street.

2.Though very many contentions have been raised by the learned counsel appearing for the petitioner, ultimately the prayer of the petitioner is to remove the encroachment made by the sixth respondent and others in the 30 feet Arasaladi Street.

3.Learned counsel appearing for the petitioner would submit that the sixth respondent and others have encroached the 30 feet Arasaladi Street.

4.Denying the submission made by the learned counsel appearing for the petitioner, learned counsel appearing for the sixth respondent submitted that the land in which the sixth respondent is in occupation is only a patta land.

5.Counter affidavit has been filed by the sixth respondent stating that the sixth respondent and 18 others belong to the Schedule Caste and are staying in the land in question for nearly 3 decades and that the said land was acquired by the Harijan Welfare Department from one Vaduganathan Chettiar under the Land Acquisition Act and the same was allotted to them by an Award. The entire area covered by S.No.133/1A was classified in the revenue records as Harijan settlement having an extent of 0.50.0 acres nearly 1 acre and 25 cents and the same are now in the beneficial use and enjoyment of the sixth respondent and others.

6.Learned Special Government Pleader appearing for respondents 1 to 5 would submit that respondent department have already initiated action against encroachment and issued a notice under Section 7 of the Land Encroachment Act.



7. In view of the submission made by either side, this Court hereby directs respondents 1 to 5 to pass appropriate orders, on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order, after providing opportunity of personal hearing to the petitioner and others.

8. It is made clear that this Court has not expressed anything on merits or demerits of the claim made by both sides.

9. With the above direction and observation, the writ petition stands disposed of. Consequently, W.M.P. No.15295 of 2018 stands closed. No costs.

s/d-
Assistant Registrar (CS VIII)

True Copy

Sub-Assistant Registrar

To

1. The District Collector,
Office of the Collectorate,
Thiruvarur District.

2. The Revenue Divisional Officer,
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Thiruthuraipoondi,
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3. The Tahsildar,
Thiruthuraipoondi Taluk,
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Thiruvarur District.

5. The Deputy Superintendent of Police,
Thiruthuraipoondi Range,
Thiruvarur District.

+1 CC to Mr. Vimal B Crimson, Advocate sr 1397
+1 CC to Mr. S. Kothandaraman, Advocate sr 1269
+1 CC to Govt. Pleader sr 2234.

W.P. No.13016 of 2018 and W.M.P. No.15295 of 2018

EV(CO)
SP(13/01/2020)