

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 28.10.2020

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MRS.JUSTICE R.HEMALATHA

WP.NO.15214 OF 2020

Cholambedu Village Public Welfare Association,
rep.by its President,
N.Deivasigamani

.. Petitioner

Versus

1. The District Collector,
Thiruvallur District,
Thiruvallur.
2. The Commissioner,
Avadi Corporation,
Avadi, Chennai 600 054.
3. The Tahsildar,
Avadi Taluk,
Avadi, Chennai 600 054.
4. Kathirvel
5. C.Munusamy
6. Rani

...Respondents

PRAYER:- Writ petition filed under Article 226 of the Constitution of India prays to issue a Writ of Mandamus Directing the Respondents 1 to 3 to remove the encroachments made by the Respondents 4 to 6 in S.F.No.518/2 in the Cholambedu village Avadi Taluk Thiruvallur District more Particularly (1) JKM Mahal at Door No.16 Vanjinathan Street Senthil Nagar Thirumullaivoyal Chennai 62 (2) Shopping Complex in Door No.28 Shopping Complex in Door No.28 Senthil Nagar Extension Thirumullaivoyal Chennai 62 and (3) Shopping Complex in Door No. 29 Senthil Nagar Extension Thirumullaivoyal Chennai 62 as the same have been built on Government poromboke land without any approval from the 2nd Respondnet corporation after giving notice to the respondents 4 to 6 by considering the respresentation of the petitioner dated 28.08.202 and also in obedience to the orders of this Court in W.P.No.4074 of 2016 dated 04.02.2016.

For Petitioner : Mr.M.Purushothaman
For Respondents: Mr.M.Elumalai for R1 to R3

ORDER

[Order of the Court was made by M.SATHYANARAYANAN,J.]

The Writ Petition is styled as a Public Interest Litigation alleged encroachment on the part of the private respondents in S.F.No.518/2, Cholambedu Village, Avadi Taluk, Thiruvallur District, in the form of unauthorised construction and exploitation of the same for commercial purpose.

2. Heard the submission of the learned counsel appearing for the petitioner Association. During the course of arguments, this Court has put a pertinent question to the learned counsel appearing for the petitioner as to whether the members of the petitioner Association had encroached upon any land belonging to the local body/Government or water way or water body and on instructions, it is conceded by the learned counsel appearing for the petitioner Association that may be some of them or most of the members of the petitioner Association might have encroached upon the said lands and however sought to justify the same on the ground that the superstructures put up by them are subject to statutory levies and therefore it is deemed to be regularized.

3. This Court has carefully considered the arguments advanced by the learned counsel appearing for the petitioner Association and perused the materials placed before it.

4. Dr.K.R.Ramasamy @ Traffic Ramasamy filed W.P.No.4074 of 2016 against the District Collector of Thiruvallur District, Commissioner, Avadi Municipality, the Chief Engineer, PWD-WR, Chennai-5, the Revenue Divisional Officer, Ambattur prayed for issuance of Writ of Mandamus to remove the encroachment put up by the anti social elements over the land comprised in Survey No.532 as per the T.S. Ward D, Block No.101, T.S. No. M.33, 34, 35, these were Cart Track and Water Irrigation Canal of the lake Survey No. 520, Ward D, Block 100 Town Survey No.28, Cart Track and Water irrigation Canal of the lake Survey No.518 innermouth of lake No.567, Ward D, Block No. 89, T.S.No.4, Arafath Lake of an extent of 32 acres situated at Sozhambedu Village of Thirumullaivoyal Village-II of Ambattur Taluk Thiruvallur District and vide final order dated 04.02.2016, this Court has directed the 1st respondent to dispose of the representation dated 03.11.2014 submitted by the petitioner within the stipulated time. It is to be noted at this juncture that in one of the Survey Numbers in S.F.No.518, inner mouth of lake admeasuring an extent of 32 acres situated at

Sozhambedu Village of Thirumullaivoyal Village-II of Ambattur Taluk, Thiruvallur District and curiously the petitioner has targeted the private respondents in respect of S.F.No.518 and in the light of the fact that the writ petition is styled as a public interest litigation, the petitioner Association is under obligation to state as to the removal of encroachments in respect of other survey numbers also, which were the subject matters of litigation in W.P.No.4074 of 2016.

6. The justification made by the petitioner with regard to the alleged encroachment on the part of the members of the petitioner's association is that since the superstructures put up by them are subject to statutory levies, they are deemed to be regularized. In the considered opinion of this Court, the said submission lacks merit and substance for the reason that mere levy and collection of taxes would not lead to a presumption that encroachment and unauthorized construction put up thereon had been authorized.

7. This Court taking into consideration the above facts and circumstances and without going into the merits of the claim projected by the petitioner directs the respondents 1 to 3 to comply with the earlier order dated 04.02.2016, made in W.P.No.4074/2016 and they are further directed to cause inspection of the land and superstructures put up by the members of the petitioner Association and if they find that they are also guilty of encroachments, the concerned respondents shall also take appropriate action against them also, apart from the removal of the alleged encroachment and alleged unauthorised construction put up by the respondents 4 to 6.

8. It is needless to state that the respondents 1 to 3 shall invoke appropriate provision of law for discharging their duties and for doing so, they shall also adhere to the principles of natural justice and they shall complete the entire exercise within a period of 12 weeks from the date of receipt of a copy of this order.

9. The Writ Petition is dismissed subject to above observations. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

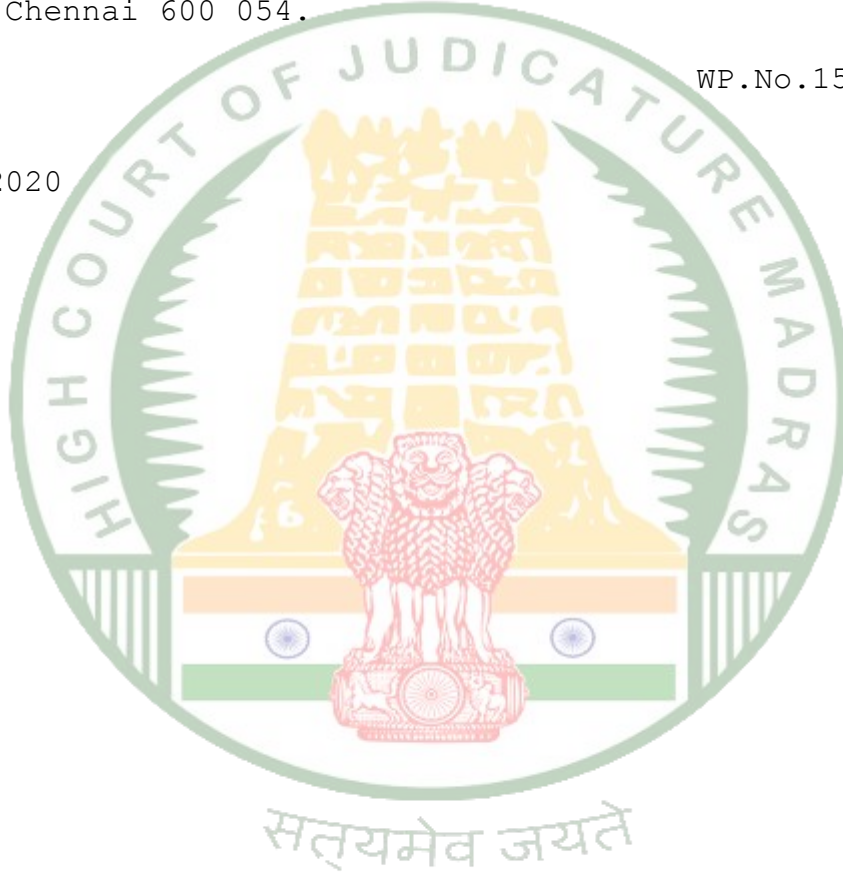
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To

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Thiruvallur.
2. The Commissioner,
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RSV(CO)
CS/02/12/2020



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