

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 23.11.2020

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

WP.No.16375/2020

M.Sekar ... Petitioner

VS

1.The District Collector ... Respondents
Collectorate and Namakkal
and District.

2.The District Revenue Officer
Collectorate & Namakkal District.

3.The Revenue Divisional Officer
Namakkal and District.

4.The Tahsildar
Rasipuram Taluk
Namakkal District.

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondents to consider the available materials including the representations given by the petitioner and to direct the respondents to take necessary steps to remove the encroachments in S.No.404/185, 369/140, 369/148, 429/120, 405/1, 405/12, 405/15, 405/16 and 405/22 which is situated at Singalanthapuram Village and Post, Rasipuram Taluk and Namakkal District.

For Petitioner : Mr.P.Vijendran

For Respondents : Mr.R.Vijayakumar
Additional Government Pleader

ORDER

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

(1) By consent, the writ petition is taken up for final

disposal and is disposed of by this order.

(2) Mr. R. Vijayakumar, learned Additional Government Pleader accepts notice on behalf of the respondents.

(3) The writ petition is styled as a Public Interest Litigation for removal of encroachment and the petitioner, on an earlier occasion, had approached this Court by filing WP.No.29264/2016 against the very same official respondents, praying for issuance of a writ of mandamus, directing the 2nd respondent therein, viz., the District Revenue Officer [DRO], Namakkal, to consider the review petition of the petitioner dated 04.02.2016 in the light of G.O.Ms.No.540, Revenue [LD6 [2]] Department dated 04.12.2014 and consequently, direct the respondents to take immediate and necessary steps to remove the encroachments made in Singalanthapuram Village, Rasipuram Taluk, Namakkal District and it came to be disposed of on 26.09.2016 in the light of the judgment reported in **2012 [4] MLJ 646 [Zonal Officer-V, Corporation of Chennai-600 010 and another V. K.Narasa Reddy, Kances Constructions Pvt Ltd., Chennai -17 and others]**.

(4) The petitioner, alleging willful disobedience and non-compliance of the order, also filed Cont.P.No.2679 of 2018 and having noted that patta has been granted in respect of S.No.369/148 and the land in S.No.369/140 for user by the general public for religious activities in respect of Karupanaar temple, the Court found that it cannot be deemed as an encroachment and no action need be taken and in the light of the same, has closed the contempt petition, for having noted no willful disobedience and non-compliance of the order.

(5) The learned counsel for the petitioner has drawn the attention of this Court to the repeated communications emanate from some of the official respondents as to the removal of the encroachments in S.Nos.369/140, 369/148, 405/1, 404/185 and 404/143 of Singalanthapuram Village and would submit that despite the report of the Zonal Deputy Tahsildar, Rasipuram, would disclose the encroachments, no proper follow-up action has been taken for the past two years and repeated representations have been given from 2018 onwards and the last of such representations were submitted on 24.04.2020 ; 27.04.2020 ; and 14.09.2020 and therefore, prays for appropriate orders for removal of the encroachments.

(6) **Per contra**, Mr. R. Vijayakumar, learned Additional Government Pleader appearing for the respondents has drawn the attention of this Court to the order dated 19.12.2018 made in Cont.P.No.2679/2018 and would submit that in the light of paragraph No.3 of the said order, the lands in S.Nos.369/148 and 369/140 cannot be termed as an

encroachment and in respect of the other Survey Numbers, immediate and necessary steps would be taken by following due process of law for removal of the encroachment by also putting the concerned encroacher/s on notice and this Court may fix an outer time limit for completion of the said exercise.

(7) This Court has considered the rival submissions and also perused the materials placed before this Court.

(8) Though the petitioner has prayed for a larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner, either in his representations or in this writ petition, directs the 4th respondent to act on the various communications of the superior officials and with the aid of the jurisdictional Taluk Surveyor, shall cause inspection and survey of the lands in question and depending upon the result of the same, shall take immediate and necessary steps to remove the encroachments, in accordance with law by also adhering to the principles of natural justice and complete the said exercise within a period of ten weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner as well as to the person/s / encroacher/s concerned.

(9) The writ petition stands disposed of accordingly. No costs.

-Sd/-

Assistant Registrar (CS)

// True Copy //

Sub Assistant Registrar

AP

To

1. The District Collector
Collectorate and Namakkal
and District.
2. The District Revenue Officer
Collectorate & Namakkal District.
3. The Revenue Divisional Officer
Namakkal and District.
4. The Tahsildar
Rasipuram Taluk
Namakkal District.

+1 C.C. to M/S.P.VIJENDRAN Advocate SR.NO.37523

WP.No.16375/2020

SSV (CO)
UM (15.12.2020)



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