

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24.11.2020

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

WP.No.16554/2020

Baby @ Rajamani ... Petitioner

Vs

1.The District Collector ... Respondents
District Collector Office
Coimbatore.

2.The Tahsildar
Pollachi, Coimbatore.

3.The Tahsildar
Office of the Tahsildar
Anaimalai, Coimbatore District.

4.Mylsamy

5.K.Ravikumar

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondents 1 and 3 to take appropriate action to remove the encroachments caused by the respondents 4, 5 and others by planting trees over the Government promaboke odai and pathway comprised in SF.No.359 and 353 at Jallipatti Village, Anaimalai Taluk, Coimbatore District within an appropriate time.

For Petitioner : Ms.V.Revathi

For RR 1 to 3 : Mr.S.Kamalesh Kannan
Government Advocate

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. S. Kamalesh Kannan, learned Government Advocate accepts notice on behalf of the respondents 1 to 3.

(3) The petitioner is a resident of Angalakurichi Village, Anaimalai Taluk, Coimbatore District and he came forward to file this writ petition stating among other things that her husband is having an agricultural land comprised in SF.No.360/1C, Jallipatti Village, Anaimalai Taluk, Coimbatore District and the land comprised in SF.Nos.359 and 353 of the very same place, in terms of the revenue records, is shown as 'Odai Poramboke' and during rainy seasons, water used to flow and reach Jallipatti Odai. It is the specific case of the petitioner that respondents 4 and 5 and some others who are having agricultural land / nearby to the said water way, had damaged and in the process of obliterating the same, by dumping mud and earth equal to the height of their agricultural lands and also planted trees. The petitioner, in this regard, has submitted a representation dated 30.05.2018 and upon receipt of the same, the office of the Sub Collector, Pollachi, vide Memo dated 12.06.2018, in O.Mu.No.1761/2018/A1 sent a communication to the 3rd respondent to cause survey and inspection and in the event of encroachment being found, to take appropriate action for removal of the same and it is also followed by a communication in the form of a Memo dated Nil March 2019, in Na.Ka.No.5575/2019/A7 to the Revenue Inspector.

(4) The learned counsel for the petitioner would submit that despite such directions, no action has been taken so far to remove the encroachment and also drawn the attention of this Court to the photographs and would submit that there are wild growth of 'Propis Juliflora' on the said water way also and apart from removing the encroachment, an obligation is cast upon the official respondents to remove Propis Juliflora on the water way also and prays for appropriate orders.

(5) **Per contra**, Mr. S. Kamalesh Kannan, learned Government Advocate appearing for the respondents 1 to 3 would submit that the jurisdictional officer who has to take action is the Block Development Officer of Anaimalai Taluk and this Court may issue appropriate directions to him to discharge his lawful duties.

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

(7) This Court, taking into consideration the above facts and circumstances and without going into the merits of the claim projected by the petitioner, either in his representation or in this writ petition, directs the 3rd respondent, in coordination with the Block Development Officer, Anaimalai Taluk, to cause inspection of the water way in SF.Nos.359

and 353 situate in Jallipatti Village and if the result of the inspection discloses any encroachment, which may include respondents 4 and 5, they have to take immediate, necessary and appropriate action in accordance with law and remove the encroachment.

(8) In the light of the order of interim direction dated 28.04.2017 made in WP.No.10614/2017 and WP [MD] Nos.20767, 18748/2013 ; 14699, 16485/2015, 3075, 4646, 5456, 2847/2017 and Cont.P.[MD] Nos.1340/2014 and 773/2017, the above said officials, in the event of noting the wild growth of exotic weeds, which may include Propis Julifora, shall also take necessary steps to clear the same and clear the water way so that during rainy seasons, there may be free flow of water which may reach the tank at Jallipatti village. The said officials shall carry out the entire exercise within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner, respondents 4 and 5 as well as any other person/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
District Collector Office
Coimbatore.

2.The Tahsildar
Pollachi, Coimbatore.

3.The Tahsildar
Office of the Tahsildar
Anaimalai, Coimbatore District.

+1.C.C. to Government Pleader SR.NO.38238

WP.No.16554/2020

MJB (CO)
UM 14/12/2020