

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.12.2020

CORAM

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

WP.No.17585/2020

Jose Kamal Moraes

..Petitioner

Versus

1. The Collector
Office of the District Collector
Cuddalore District.

2. The Commissioner
Cuddalore Greater Municipality
Bharathi Road,
Cuddalore 607001.

3. Mr.Sankar Singh

..Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondents 1 and 2 to forthwith remove all sort of encroachment made by the 3rd respondent particularly in Re-Survey No.421/A Ward No.7, Block No.20, Bashyam Reddy Street, Cuddalore, Cuddalore District.

For Petitioner : Mr.A.P.Suryaprakasam
For R1 : Mr.M.Elumalai
Additional Government Pleader
For R2 : Mr.V.Jayaprakash Narayanan
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. M. Elumalai, learned Additional Government Pleader accepts notice on behalf of the 1st respondent and Mr. V. Jayaprakash Narayan, learned Government Pleader accepts notice on behalf of the 2nd respondent.
- (3) The petitioner is a resident of Door No. 52, Bashyam Reddy Street, Cuddalore Town and Panchayat and came forward to file this writ petition, styled as a Public Interest Litigation alleging that he is a tenant in respect of the above said premises and it belongs to his friend who is employed in the United States of America by way of authorisation and is also managing his property at Door No. 52, Bashyam Reddy Street, Cuddalore District.
- (4) It is the specific case of the petitioner that the 3rd respondent had encroached upon a part of the said street and started putting up superstructure for commercial exploitation.
- (5) The learned counsel for the petitioner has drawn the attention of this Court to the information dated 20.04.2016 in Na.Ka.No.3249/2016/F1 furnished by the 2nd respondent under the provisions of the Right to Information Act, stating among other things, that in RS.No.421/1A, Block No.9, New Ward No.7, Cuddalore Town, there is an encroachment to an extent of 0.0035 sq.m and as per the revenue records, it is classified as 'municipality poramboke-Bashyam Reddy Street'. It is the further submission of the learned counsel for the petitioner that despite the said information came to be furnished as early as on 20.04.2016, no steps have been taken by the 2nd respondent - Municipality to remove the encroachment caused by the 3rd respondent and the representation dated 29.09.2020 submitted in this regard, has also failed to invoke any kind of response and therefore, the petitioner is constrained to approach this Court by filing this writ petition.
- (6) The Court heard the submissions of Mr. M. Elumalai, learned Additional Government Pleader appearing for the 1st respondent and Mr. V. Jayaprakash Narayan, learned Government Pleader appearing for the 2nd respondent and also perused the materials placed before it.
- (7) 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 made in the representation dated 29.09.2020 or in this writ petition, directs the 2nd respondent to cause inspection of Bashyam Reddy Street, Cuddalore Town and more particularly, Re-survey No.421/1A of Block 9, New Ward No.7 and if the result of the inspection reveals any encroachment either on the part of the 3rd respondent or somebody else in respect

of the property belonging to the said Local Body, shall take immediate, necessary and appropriate action in accordance with law by also adhering to the principles of natural justice by putting the encroachers, which may include the 3rd respondent also, on notice and complete the said exercise within a period of twelve weeks from the date of receipt of a copy of this order / uploading of the order in the website and communicate the decision taken, to the petitioner, 3rd respondent as well as person/s concerned / encroacher/s if any.

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

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

AP

To

1. The Collector
Office of the District Collector
Cuddalore District.
2. The Commissioner
Cuddalore Greater Municipality
Bharathi Road,
Cuddalore 607001.

+1cc to Mr.V.Jayaprakash Narayanan, Advocate, SR40278

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CO (BR)
BDL/07/01/2021

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