



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.08.2020

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THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.P. (MD)No.8671 of 2020

A.Vavamydeen

... Petitioner

Vs.

1.The District Collector,
Tenkasi District.

2.The Commissioner,
Panchayat Union,
Vadakarai Keelpidagai,
Tenkasi District.

3.The Executive Officer,
Vadakarai Keelpidagai Town Panchayat,
Tenkasi District.

4.The Tahsildar,
Shenkottai Taluk,
Tenkasi District.

5.P.Ramasamy Mudaliar
6.R.Lakshmanan

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents 1 to 4 to remove the encroachment made by the respondents 5 and 6 in S.No.814, classified as Government Poramboke Cattle Pound Yard and Bus Shelter at Vadakarai Keelpidagai Village, Shenkottai Taluk, Tenkasi District.

For Petitioner : Mr.H.Arumugam

For Respondents : Mr.VR.Shanmuganathan
Special Government Pleader for R.1 & R.4

Mr.M.Pandiyarajan
Additional Government Pleader for R.2 & R.3



ORDER

(Order of the Court was made by **M. SATHYANARAYANAN, J.**)

This writ petition is filed by a resident of Jaheer Hussai Nagar, 4th Street, Vadakarai, Shenkottai Taluk, Tenkasi District, who claims to be the Secretary of Mahatma Gandhiji Mandram and President of Karisalkulam Farmer's Association and he would further claim that he is also doing social service and also took part in various activities for the benefit of public at large in removing the encroachments.

2. It is the specific case of the petitioner that the land in Natham S.No.814 of Vadakarai Village, is classified as "Cattle Pound Yard" in the 'A' Register and as "Bus Shelter" in the Natham Adangal and both the structures are in a dilapidated condition and the petitioner made repeated representations to the concerned authorities to demolish both the structures for the benefit of public at large. The petitioner, in this regard, has also approached the Member of the Legislative Assembly who also promised to contribute some funds out of the Local Area Development Fund, but on account of encroachment caused by the respondents 5 and 6 in respect of the said land, nothing is fructified so far.

3. Learned Counsel for the petitioner would submit that in this regard, repeated representations were given and the third respondent also sent communications dated 17.09.2018, 24.12.2018 and 23.07.2019 to the fourth respondent as well as the Assistant Executive Engineer (Municipalities), Tirunelveli, for sanction of funds to construct a Bus Shelter/Bus Stop and also for removal of encroachments and despite such communications emanated from a Government Official, the concerned officials to whom, the said communications have been sent, failed to respond and hence, left with no other option, the petitioner is constrained to file this writ petition.

4. Mr.VR.Shanmuganathan, learned Special Government Pleader accepts notice on behalf of the respondents 1 and 4 and would submit that there is a personal dispute and rivalry between the respondents 5 and 6 and the present litigation is an offshoot of the same and since the land in question falls within the jurisdiction of the third respondent, it is for him to take appropriate action in terms of Section 131 of the Tamil Nadu Panchayats Act, 1994.

5. It is further brought to the knowledge of this Court that survey in this regard was also over and further proceedings are likely to follow.



6. This Court has carefully considered the rival submissions and perused the materials available on record.

7. Though the petitioner prays for a larger relief, this Court, in the facts and circumstances of the case, without going into the merits of the claim projected by the petitioner either in his representation or in this writ petition, directs the third respondent to follow the relevant provisions of the Tamil Nadu Panchayats Act, 1994 and after putting the alleged encroachers if any, which include the respondents 5 and 6, take immediate and appropriate steps in accordance with law and also by adhering to the principles of natural justice and complete the entire exercise within a period of six weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioner as well as the persons concerned. If the third respondent apprehends law and order problem or public order problem, he is at liberty to approach the jurisdictional police for appropriate police protection and, as and when such request is received, the jurisdictional police shall render necessary and immediate aid to the third respondent for discharging his official duties.

8. This writ petition stands disposed of accordingly. No costs.

Sd/-

Deputy Registrar(LA & M)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

RSB

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The District Collector,
Tenkasi District.

2.The Commissioner,
Panchayat Union,
Vadakarai Keelpidagai,
Tenkasi District.



3.The Executive Officer,
Vadakarai Keelpidagai Town Panchayat,
Tenkasi District.

4.The Tahsildar,
Shenkottai Taluk,
Tenkasi District.

5.The Superintendent of Police,
Tenkasi District.

+1 CC to M/s.H. ARUMUGAM, Advocate (SR-13856[F]
dated 07/08/2020)

W.P. (MD)No.8671 of 2020
06.08.2020

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TR(19.08.2020) 4P 7C