



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.09.2020

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THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.P. (MD)No.10761 of 2020

Balasubramanian

... Petitioner

Vs.

- 1.The District Collector,
Collectorate,
Karur.
2. The Sub Collector,
R.D.O.Office,
Kulithalai.
3. The Tahsildar,
Taluk Office, Tharagampatti,
Kadavoor Taluk,
Karur District.
4. The Block Development Officer,
Kadavoor, Kadavoor Taluk,
Karur District.
5. The Inspector of Police,
Palaviduthi Police Station,
Palaviduthi,
Kadavoor Taluk,
Karur District.
6. Veluthayee
7. Murugesan
8. Marudayee
9. Arul Murugan

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 1 to 5 to remove the encroachment made by the respondents 6 to 9 in survey No.135/2 West Village, D.Edaiyapatti, Kadavoor Taluk, Karur District classified as Vari Poramboke based on the petitioner representation on 05.08.2019.



For Petitioner : Mr. V.Karuna
For Respondents : Mr. M.Muthugeethaiyan,
Special Government Pleader
for R1 to R3 and R5
Mr.M.Karuppasamy for R4

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ORDER

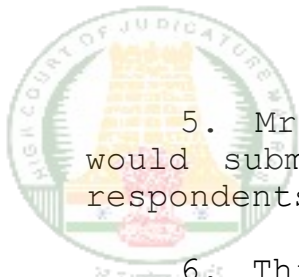
[Order of the Court was made by **M. SATHYANARAYANAN, J.**]

This Writ petition, is styled as a Public Interest Litigation. The Writ petitioner is a resident of D.Edaiyapatti (West), Kadavoor Taluk, Kararu District, came forward to file this Writ petition, styled as a Public Interest Litigation, stating among other things that as per "A" Register of D.Edaiyapatti (West) village, S.F.No.114/3 & 4 in the name of of petitioner's father Gopal Servai and there exists Vari Poramboke in S.F.Nos.114/2, 115/1 as well as in S.F.No.135/2,4 and in S.F.No.136/1. It is the specific case of the petitioner that the private respondents 6 to 9 had encroached upon the Vari Poramboke in S.F.No.135/2, so as to prevent the free flow of water to the nearby water body.

2. The learned Counsel appearing for the Writ petitioner has drawn the attention of this Court to the "A" Register pertains to the D.Edaiyapatti (West) village and also drawn the attention of this Court to the communication of the fourth respondent dated 19.07.2019, in Na.Ka.No.A3/1862/2018, addressed to the third respondent, wherein, the request has been made for survey and measurement and the third respondent in turn, has sent a communication to the fifth respondent about the law and order problem faced, while doing survey and measurement. The fourth respondent sent a communication to the encroachers on 19.08.2019, in Na.Ka.A3/1862/2019, asking them to remove the encroachment on their own, failing which appropriate action will be taken and they will pay cost and consequences.

3. The Writ petitioner aggrieved by the inaction on the part of the concerned official respondents in not removing encroachments, sent a representation based on which, the Office of the first respondent after communication dated 20.08.2019 in Na.Ka.No.A1/12902/2019 to the respondents 3 and 4 for taking appropriate action and inform the same to the writ petitioner.

4. The learned Counsel appearing for the Writ petitioner would submit that despite such communication emanated from the Office of the superior official, respondents 3 and 4 had failed to initiate any further follow up action despite the lapse of one year, therefore, the Writ petitioner is constrained to approach this by way of filing this Writ petition.



5. Mr. M.Muthugeethaiyan, learned Special Government Pleader would submit that appropriate instructions will be given to the respondents 3 and 4, to do the needful at the earliest.

6. This Court has carefully considered the rival submissions and also perused the materials placed before it.

7. A perusal and consideration of the correspondences between respondents 3, 4 and 1, would disclose that no further follow up action has been taken to remove the alleged encroachment caused by private respondents 6 to 9, despite the lapse of one year.

8. This Court is often flooded with these kind of litigations for removal of encroachment, mainly due to the fact that the concerned Revenue/Local Body officials did not evince interest or taking follow up action for removal of encroachment at the earliest point of time and their inaction and rather inept attitude only encourages encroachments. Therefore, the first respondent shall identify such officials, who are guilty of not performing their duties properly and take appropriate action which may include criminal prosecution also.

9. This Court taking into consideration the above facts and circumstances, directs the respondents 3 and 4 to cause removal of encroachment, said to have been caused by the private respondents or any other persons, if any, by following due process of law and also adhering the principle of natural justice and complete the said exercise as expeditiously as possible, not later than eight weeks from the date of receipt of a copy of this order and communicate the decision taken to the Writ petitioner and private respondents as well as to the concerned persons, if any.

10. This **Writ petition stands disposed of** accordingly. Call on **12.10.2020**, for filing status report of the first respondent with supporting documents with photographs by then.

Sd/-

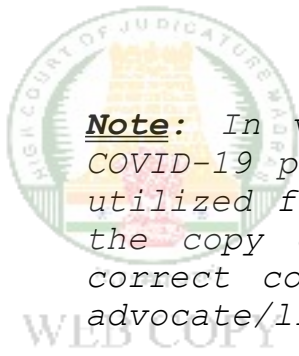
Assistant Registrar (CS-II)

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/ /2020

Sub Assistant Registrar (CS)

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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,
Collectorate,
Karur.
- 2.The Sub Collector,
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3. The Tahsildar,
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Kadavoor, Kadavoor Taluk,
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5. The Inspector of Police,
Palaviduthi Police Station,
Palaviduthi,
Kadavoor Taluk,
Karur District.

+1 CC to the SPL GP SR-16121[F] dated 07/09/2020)

W.P. (MD) No.10761 of 2020
03.09.2020

CS(11.09.2020) 4P 7C