



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **24.09.2020**

CORAM

THE HON'BLE MR.JUSTICE M.SATHYANARAYANAN

and

THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

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W.P. (MD) No.12337 of 2020
(Through Video conferencing)

D.S.Muniyappan

...Petitioner

-Vs-

- 1.The District Collector
District Collector Office Premises
Tuticorin District.
- 2.The Revenue Divisional Officer
Kovilpatti
Tuticorin District.
- 3.The Tahsildar
Kovilpatti Taluk
Tuticorin District,
- 4.The Block Development Officer
(Village Panchayats)
Panchayat Union Office
Kovilpatti
Tuticorin District.
- 5.The Panchayat President
Enammaniyatchi Panchayat
Lakshmipuram Post
Tuticorin.

6.Renuga

7.Velammal

...Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a writ of Mandamus, directing the respondents 1 to 5 to initiate legal action based on the representations of the petitioner dated 08.08.2020, 02.09.2020 and to remove all the encroachments made in Survey Nos.2, 4, 6 and 8 B/2, situated in between Krishna Nagar Housing Board Colony No.1 and Krishna Nagar Housing Board Colony No.2, Alampatti Village, Kovilpatti (TK), Tuticorin District an extent of 26 cents by adopting due process of law and to restore the same free from all kinds of encroachments and consequently directing the respondents 1 to 5 to initiate legal action against the 6th and 7th respondents for



their wilful act of encroachment with in a time limit that may be fixed by this Court.

For Petitioner : Mr.C.M.Arumugam
For Respondents : Mr.R.Murugan,
Addl. Govt. Pleader for R1 to R5
Mr.P.Subba Raj for R6 & R7

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ORDER

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

This writ petition is filed by a resident of Tamil Nadu Housing Board Colony-1, Tuticorin District and according to him, he is a retired Headmaster and he is 78 years old and it is his specific case that in the housing plots developed by the Tamil Nadu Housing Board, the lands admeasuring to an extent of 26 cents have been left out for public purposes/amenities and in a portion of a land, a part time fair-price shop has been put up and rest of the remaining extent of 23 cents are kept as vacant.

2. It is the specific case of the petitioner that the respondents 6 and 7 had put up wiring fence as well as "Thulasi Maadam" for their private use and the representation submitted, in this regard, to the concerned official respondents dated 02.09.2020, has failed to invoke any kind of response and therefore, came forward to file this writ petition.

3. The learned counsel appearing for the petitioner has drawn the attention of this Court to the communication dated 19.08.2020 in Na.Ka.No.Thi 3/736/19, addressed to the fifth respondent and would submit that despite such a communication, the 5th respondent did not evince any interest to remove the encroachment and therefore, the petitioner is constrained to approach this Court by filing this writ petition.

4. Mr.R.Murugan, learned Additional Government Pleader, appearing for respondents 1 to 5 would submit that originally, the plots were developed by the Tamil Nadu Housing Board and the land admeasuring to an extent of 26 cents have been handed over to the local body viz., Inammaniachi Panchayat and it is for the local body to utilise the said land for public purpose/amenities.

5. Mr.P.Subba Raj, learned counsel, who accepts notice on behalf of respondents 6 and 7, apart from denying the allegations levelled against them, on instructions, would submit that there were wild growth of exotic bushes and therefore, respondents 6 and 7 along with public spirited persons have removed the said exotic bushes and they have no intention to encroach upon the said land that has been set apart for public amenities/public purposes and the said submission, on instructions, is placed on record.



6. It is relevant to extract Section 131(2) of the Tamil Nadu Panchayat Act, 1994:

"131. Prohibition against obstruction in or over public roads, etc:

(1)....

(2) It shall be the duty of the Village Administrative Officer of every revenue village to report on encroachments on properties vested in Village Panchayats or Panchayat Union Councils to the Executive Authority or the Commissioner concerned and to the officer of the Revenue Department, and it shall be the duty of the Executive Authority or the Commissioner concerned either suo motto or on obtaining a report from the Village Administrative Officer in this regard to institute proceedings under this Act and secure the removal of the encroachments within such time as may be specified by the Government by general or special order. If the removal of the encroachments has not been secured within the period specified in such order, the officers of the Revenue Department shall institute proceedings under the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905) and secure such removal."

7. This Court, taking into consideration 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 respondents 3 and 4 to cause joint inspection of the lands, deserves for public purpose in Enammaniyachi Panchayat within a period three weeks from the date of receipt of a copy of this order and if the result of inspection reveals any encroachment or unauthorised construction either permanent or temporary, the respondents 3 and 4 shall proceed further in accordance with law and complete the said exercise within a further period of six weeks thereafter and communicate the decision taken to the petitioner as well as the persons concerned, including respondents 6 and 7.

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

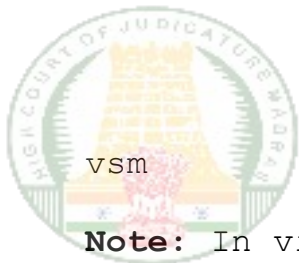
Sd/-

Assistant Registrar (crl side)

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/ /2020

Sub Assistant Registrar(CS)



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

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+1 CC to SPL GP (SR-18236[F] dated 28/09/2020)

Order made in
W.P. (MD) No.12337 of 2020
24.09.2020

VB (05.10.2020) 4P 7C