



WEB COPY

W.P.(MD)No.14126 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 08.10.2020

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THE HON'BLE Mr. JUSTICE N.KIRUBAKARAN

AND

THE HON'BLE Mr. JUSTICE B.PUGALENDHI

W.P. (MD)No.14126 of 2020

and

W.M.P. (MD)No.11777 of 2020

V.Murugesan

.. Petitioner

Vs.

1.The District Collector,
Karur District, Karur.

2.The Revenue Divisional Officer,
Kulithalai, Karur District.

3.The Tahsildar, Tharagampatti,
Kadavoor Taluk, Karur District.

4.The Block Development Officer (Village Panchayats),
Kadavoor Panchayat Union at Tharagampatti,
Kadavoor Taluk,
Karur District.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents to follow the due process of law, before interfering the possession and enjoyment of the petitioner, in S.F.No.135/2 of T.Edayapatti Village (West), Kadavoor Taluk, Karur District.

For Petitioner	:	Mr.AN.Ramanathan
For Respondents	:	Mr.M.Muthugeethaiyan Special Government Pleader

ORDER

(Order of the Court was made by N.KIRUBAKARAN, J.)

The petitioner has approached this Court seeking a Writ of Mandamus, to direct the respondents not to interfere with the possession and enjoyment of the land in S.F.No.135/2, T.Edayapatti Village (West), Kadavoor Taluk, Karur District, as the said property has been in occupation of his ancestors for generations together.

2.According to the petitioner, the above said land was classified as Government Poramboke Vari in UDR Scheme. He raised about 50 Coconut Trees and also vegetable crops in the said land.



3. When things stood thus, the respondents are trying to evict the petitioner. Therefore, the petitioner has approached this Court, by way of filing the present Writ Petition.

4. Heard Mr. AN. Ramanathan, learned counsel appearing for the petitioner and Mr. Muthugeethaiyan, learned Special Government Pleader appearing for the respondents.

5. Even though Mr. AN. Ramanathan, learned counsel appearing for the petitioner would submit that under the Tamil Nadu Panchayats Act, 1994 [hereinafter referred to as 'the Act'], the Block Development Officer, has no power to evict the petitioner, a perusal of Section 131(2) of the Act, which was amended in 1999, would make it clear that the Commissioner or the Executive Authority is duty bound to get a report from the Village Administrative Officer, secure and remove the encroachment.

6. At this juncture, it is relevant to extract Section 131(2) of the Act as under:-

'131. Prohibition against obstructions in or over public roads.'

(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 motu 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. A plain reading of the above Section makes it clear that after amendment came into force in 1999, it is the duty of the Executive Authority or the Commissioner concerned either suo motu or on obtaining a report from the Village Administrative Officer, to institute proceedings, secure and remove the encroachment. Therefore, the Block Development Officer had got powers under the Act and as per the amendment in 1999. It is not as alleged by Mr. AN. Ramanathan, learned counsel appearing for the petitioner that under the Tamil Nadu Land Encroachment Act only, the Revenue Authority alone can evict the petitioner.



8. That apart, the question of eviction was triggered by order passed by this Court in W.P.(MD)No.10761 of 2020, dated 03.09.2020, filed by one Balasubramanian against the authorities, including the petitioner. The said Writ Petition was disposed of at the admission stage itself i.e., on 03.09.2020, but following the due process of law after giving notice to the encroachers.

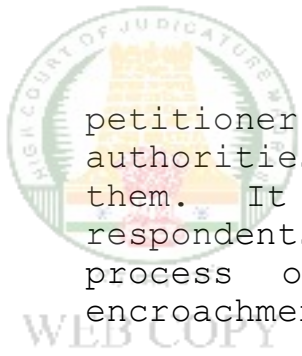
9. When the petitioner came to know about the same, has filed the Review Application in Rev.Application (MD) No.38 of 2020 and the same was disposed of on 01.10.2020, directing the respondents to identify the encroachers in S.No.135/2, West Village, D.Edaiyapptai, Kadavoor Taluk, Karur District and follow the due process of law, as per Section 131(2) of the Act.

10. From the institution of the new petition, it is clear that the petitioner is aware of the proceedings initiated pursuant to the order passed by this Court and thereafter, the proceedings of the Block Development Officer, dated 28.09.2020, has been served upon the petitioner, which has been issued under Section 131(2) of the Act. It is not as if, for the first time, the petitioner has been given notice.

11. As stated above, he had the knowledge about the proceedings when he filed the Review Application. Therefore, the very purpose of revision is only to put on notice on the proposed eviction and therefore, the contention that sufficient time is not given, cannot be sustained.

12. Admittedly, the petitioner is an encroacher and he has no right over the property and due process of law has been followed as stated above. Moreover, Mr.M.Muthugeethaiyan, learned Special Government Pleader would submit that the eviction has been ordered and the Vari has been restored. However, 17 Coconut Trees, which have been grown by the petitioner, have not been touched upon. Further, the petitioner has cultivated some vegetables in 400 sq.ft. and the same have also not been touched upon. Apart from this, he has grown some paddy saplings. As soon as the harvesting is over, the petitioner shall hand over the possession to the respondents, failing which, the respondents can take possession of the remaining portion also.

13. Therefore, this Court directs the respondents not to cut down the coconut trees and maintain the coconut trees. It is open to the respondents to lease out the coconut trees either to the petitioner or to some third parties in an open auction. However, it is made clear that taking advantage of the presence of the coconut trees, the petitioner cannot once again encroach upon the property in question. If any encroachment is made by the



petitioner or by his family members, it is always open to the authorities to initiate appropriate criminal prosecution against them. It is also made clear that it is the bounden duty of the respondents to identify the encroachment and follow the due process of law and evict those encroachers, including the encroachment made by one Balasubramanian in S.Nos.98/3 and 98/4.

14.This Writ Petition is disposed of with the above directions. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

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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,
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Karur District.

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SJ(CO)

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