



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE **N.KIRUBAKARAN**

AND

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

W.P. (MD) No.17156 of 2020

and

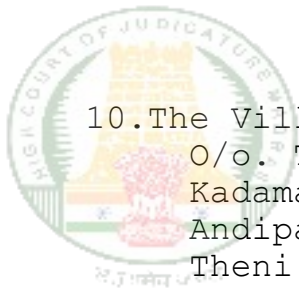
W.M.P. (MD) No.14320 of 2020

E.Ramesh

: Petitioner

Vs.

- 1.The District Collector,
Theni District, Theni.
- 2.The Block Development Officer,
O/o. The Block Development,
Andipatti Taluk,
Theni District.
- 3.K.Ravichandran
- 4.The Tahsildar,
Andipatti Taluk Office,
Andipatti,
Theni District.
- 5.The Revenue Inspector,
O/o. The Revenue Inspector,
Mayiladumparai Village,
Andipatti Taluk,
Theni District.
- 6.Murugan
- 7.The Village President,
Kumananthozhu Village Panchayat,
Kumananthozhu,
Andipatti Taluk,
Theni District.
- 8.The Village President,
Kadamalai Kundu Village Panchayat,
Kadamalai Kundu,
Andipatti Taluk,
Theni District.
- 9.T.Chandra



10.The Village Administrative Officer,
O/o. The Village Administrative,
Kadamalai Kundu Village,
Andipatti Taluk,
Theni District.

11.Thangam

12.Duraipandi

13.The Inspector of Police,
Kadamalai Kundu Police Station,
Kadamalai Kundu,
Andipatti Taluk,
Mayiladumparai,
Theni District.

14.Suresh Kumar

15.The Superintendent Engineer,
TEDC - TANGEDCO,
Theni

: Respondents

[R.15 suo-motu impleaded]vide court order dated 23.12.2020 in WP (MD).17156/2020

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus forbearing the respondents 8, 9, 11 & 12 from storing the garbage in the land situated in S.No.737, Kumananthozhu Village, Andipatti Taluk, Theni District and directing the respondents 8 & 9, more particularly, the 7th respondent to remove the garbage already stored in the said land.

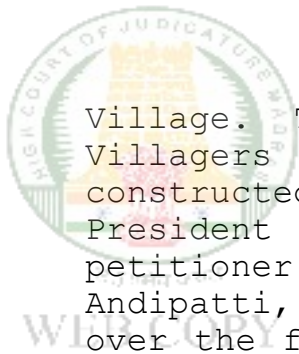
For Petitioner : Mr.K.Neelamegam
For Respondents : Mr.R.Murugan,
Additional Government Pleader
for RR.1, 2, 4, 5, 10 & 13
Mr.SMS.Johny Basha
Standing Counsel for R.15

ORDER

(Order of the Court was made by **B.PUGALENDHI, J.**)

This writ petition is filed for a Writ of Mandamus forbearing the respondents 8, 9, 11 & 12 from storing the garbage in the land situated in S.No.737, Kumananthozhu Village, Andipatti Taluk, Theni District and for a consequential direction to the 7th respondent / Kumananthozhu Village Panchayat President to remove the garbage already stored therein.

2. The present writ petition is filed on public interest that there are 30 families residing near S.No.737 of Kumananthozhu



Village. The land is classified as Natham Poramboke and the Villagers are using the same for Agricultural purposes and also constructed small Huts in the above village. When the Panchayat President attempted to vacate them from the said land, the petitioner's wife has filed a suit before the District Munsif Court, Andipatti, for a bare injunction in O.S.No.24 of 2020. Aggrieved over the filing of the suit, the 7th respondent / Kumananthozhu Village Panchayat President and the respondents 8, 9, 11 & 12 have influenced the 13th respondent / Inspector of Police to file several litigations against him.

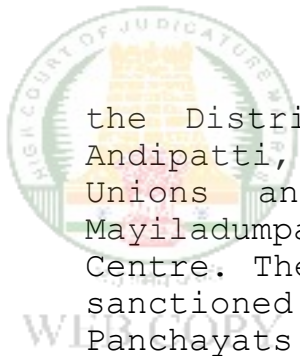
3. When the writ petition is taken up for hearing, the learned Additional Government Pleader appearing for the official respondents has produced two communications, addressed by the Block Development Officer, Mayiladurai and the Tahsildar, Andipatti / 4th respondent.

4. According to the learned Additional Government Pleader, the relief sought for in this writ petition is with regard to S.No.737 of Kumananthozhu Village, Andipatti Taluk, but, the proposed Modern Composite Centre is constructed only in S.Nos.728/1 & 2 of Kumananthozhu Village, Andipatti Taluk. The land is classified as a Poramboke land and the Government has proposed to set up Modern Composite Centres in Theni District, at a cost of Rs.34.50 Lakhs. The District Collector and other officials, after inspection, have identified the land in S.Nos.728/1 & 2, to an extent of 3 Acres for constructing the said Modern Composite Centre.

5. The learned Additional Government Pleader would further submit that the population of Kumananthozhu Village is 18,000 and around 4,000 houses are there and the proposed site is 1 km away from Kumananthozhu Village Panchayat. The place was identified and orders have been passed in the month of January, 2020 itself, however, in view of the present COVID-19 situation, construction work has not commenced. Taking advantage of the same, the petitioner persuaded some of the villagers and occupied certain lands, put up some construction with Hollow Bricks with an assurance that by doing so, they can get free patta from the Government. The Tahsildar / 4th respondent, in his report, has further stated that these constructions were made within the last six months period and by producing some false documents, house tax receipts and electricity connections were also obtained by five houses.

6. Heard the learned Counsel appearing for the respective parties and perused the documents placed on record.

7. The Government, under the Solid Waste Management scheme, is implementing the concept of Modern Composite Centre in every Panchayat. The Government, vide G.O.Ms.No.15, Rural Development Department, dated 07.01.2020, decided to set up this Modern Composite Centres near the Village Panchayats, which are nearby the



the District Administration has identified five Panchayats from Andipatti, Mayiladumparai, Periyakulam, Uthamapalayam Panchayat Unions and the Kumananthozhu Village is identified for the Mayiladumparai Panchayat Union to set up this Modern Composite Centre. The District Collector, by proceedings dated 05.03.2020, has sanctioned the required finds for the projects in all the four Panchayats.

8. According to the Block Development Officer, Mayiladumparai Panchayat Union, approximately 5 ton garbage are collected from Kumananthozhu Panchayat and were dumped near the river Uppodai, Theni Main Road. The dumping of garbage are affecting the free flow of water in that river and therefore, under the special scheme, the place in S.No.728/1 & 2, Vellimalai Main Road, which is classified as Forest Poromboke (fhL g[wk;ngfh;F) in the revenue records has been selected. However, the petitioner has cheated some of the landless poor people that he would get free patta and made them to put up some constructions and has also created certain revenue records.

9. The petitioner has relied upon a civil suit filed in O.S.No.24 of 2020. The suit was filed by his wife, namely, Muthulakshmi, in the year 2020. The suit was filed for a bare injunction. But neither the suit nor the documents relied by the petitioner have been enclosed along with the writ petition. The petitioner, in support of this petition, has produced certain photographs, which shows that the constructions with Hollow Bricks are made very recently. In fact, it is the specific stand taken by the Tahsildar / 4th respondent that the constructions have been made recently within six months, with the connivance of some officials.

10. When the land has been classified as Forest Poromboke (fhL g[wk;ngfh;F) in the revenue records, it is not known as to how these encroachers were allowed to enter into the Government Land. As per Revenue Standing Order - 21(3)(iii), the Village Administrative Officers will be held responsible for preventing and reporting encroachments. That apart, if a calculative attempt has been made either by the petitioner or some other persons to encroach upon the Government land, with the connivance of the officials, we do not understand as to how house tax receipts were obtained and how electricity service connections were provided without any valid document.

11. In view of the specific stand taken by the official respondents, this Court is not inclined to entertain this writ petition. Accordingly, this writ petition is dismissed. However, the 1st respondent / District Collector is directed to take action against the officials, who have colluded with the petitioner or any other person in creating revenue records to encroach and occupy the Government land. The 1st respondent / District Collector is also to



time and if they are below poverty line [BPL] and are eligible for free patta as per the prevailing government norms, the 1st respondent shall ensure that those persons are provided with an alternative site.

12. The Superintendent Engineer, TEDC - TANGEDCO, Theni, is suo-motu impleaded as 15th respondent and Mr.SMS.Johny Basha, learned Standing Counsel is to take notice on behalf of the newly impleaded 15th respondent. The 15th respondent shall take appropriate action as against the officials of the Electricity Board, who have provided electricity service connection without any valid documents.

13. With the above observations and directions, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (cs-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

gk
To

- 1.The District Collector,
Theni District, Theni.
- 2.The Block Development Officer,
Andipatti Taluk, Theni District.
- 3.The Tahsildar,
Andipatti Taluk Office, Andipatti,Theni District.
- 4.The Revenue Inspector,
Mayiladumparai Village, Andipatti Taluk, Theni District.
- 5.The Village Administrative Officer,
Kadamalai Kundu Village, Andipatti Taluk,Theni District.
- 6.The Inspector of Police,
Kadamalai Kundu Police Station,
Kadamalai Kundu,
Andipatti Taluk, Mayiladumparai,Theni District.
- 7.The Superintendent Engineer, TEDC-TANGEDCO, Theni.

W.P. (MD) No.17156 of 2020
23.12.2020

VR(CO)