



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.P(MD)No.11971 of 2017

M.Malaisamy

... Petitioner

Vs

1.The District Collector,
Collector Office,
Sivagangai District.

2.The District Adi Dravidar and Tribal Welfare Officer,
Sivagangai District.

3.The Tahsildar,
Sivagangai Taluk,
Sivagangai District.

4.The Special Tahsildar,
Adi Dravidar Welfare,
Sivagangai.

5.The Village Administrative Officer,
Paiyoor Pillai Vaiyal Village,
Paiyoor Pillai Vaiyal Group,
Sivagangai District.

... Respondents

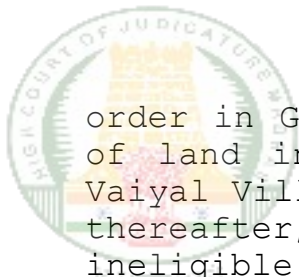
Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to remove the encroachments made in S.No.211 / 1 and 211 / 2 situated at Paiyoor Pillai Vaiyal Village, Paiyoor Pillai Vaiyal Group, Sivagangai District.

For Petitioner	: Mr.V.Paneerselvam
For Respondents	: Mr.V R.Shanmuganathan Special Government Pleader

ORDER

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

The petitioner claims to be the President of Sweeper Labour and Adi Dravidar Welfare Association and according to him, the Sweepers working in the services of the Sivagangai Municipality belonging to Hindu Kurava Community made very many representations and demands for allotment of free house sites and taking into consideration said representations and demands, Government issued



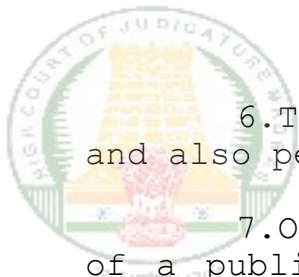
order in G.O.(3D) No.909 dated 01.12.1992 acquiring 5.15.5 hectares of land in S.No.211 / 1 and 211 / 2 situated at Paiyoor Pillai Vaiyal Village, Paiyoor Pillai Vaiyal Group, Sivagangai District and thereafter, in the year 1994, they issued pattas to more number of ineligible persons. Thereafter, repeated complaints were emanated and re-enquiry was caused and pattas issued to ineligible persons were cancelled. But, however, taking advantage of illegal occupation of land and time lapse, ineligible persons have trespassed into the said lands and take possession. The petitioner has filed W.P.(MD) No.8860 of 2015 praying for appropriate directions to issue pattas, in respect of eligible persons by considering the representations dated 03.11.2014, 01.12.2014 and 05.03.2015, and this Court, vide order dated 15.07.2015, directed the concerned official respondents to consider the representations submitted in this regard and pass appropriate orders and dispose of the same in accordance with law.

2.The petitioner would further state that only 64 persons were identified and the fact remains that the encroachments caused by the illegal occupants have not been removed and in this regard once again submitted a series of representations dated 16.03.2014, 03.11.2014, 01.12.2014. 05.03.2015, 20.04.2015 and 01.02.2016 and despite receipt and acknowledgement, no action has been taken and therefore, he is constrained to approach this Court by way of this writ petition styled as Public Interest Litigation.

3.When the matter was listed on 10.07.2020, Mr.VR.Shanmuganathan, learned Special Government Pleader, accepted notice on behalf of the respondents and this Court directed the concerned official respondent to file counter affidavit / status report with supporting and documents. Accordingly, the fourth respondent has filed a counter affidavit dated Nil, July, 2020.

4.Mr.VR.Shanmuganathan, learned Special Government Pleader, appearing for the official respondents has invited the attention of this Court to the contents of the counter affidavit that in the light of the irregularities noted, pattas originally granted were cancelled and 64 eligible persons were identified, which included the petitioner also and he was also allotted the two cents of land. It is the further submission of learned Special Government Pleader that the petitioner himself is guilty of encroachment and he has failed to approach this Court with clean hands and hence, he is not entitled to any relief.

5.The learned Special Government Pleader, appearing for the official respondents further pointed out that for removal of encroachment, appropriate action has already been initiated by the official respondents under the provision of the Tamil Nadu Land Encroachment Act, 1905 and he once again pointed out that the petitioner is also one of the encroachers and he encroached upon Plot Nos.59 & 66 and in this regard, he was also issued with notice and hence, prays for dismissal of the writ petition with exemplary



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

7.Once a person approaches this Court alleging encroachment of a public land, he is expected to state truth that he did not cause encroachment upon the land belonging to the Government or local body. Unfortunately, though the petitioner was shown benevolence in the form of allotment of two cents of land each, he became greedy and encroached upon Plot Nos.59 & 66, as pointed out in Para 8 of the counter affidavit.

8.The explanation now offered by the learned counsel appearing for the petitioner is that subsequent to the filing of the writ petition, the petitioner put up a small hut in the above said survey numbers for arranging tin sheets and cement bags for constructing a temple and now, he realised his mistake and also undertakes to remove the same. If the petitioner is really interested in finishing the construction of the Presiding deity of the religion, he should have put up a hut in his own place and he should not encroach upon the land belonging to the Government. The petitioner, who himself is guilty of encroachment is not expected to file a writ petition in the form of Public Interest Litigation and therefore, such kind of act on the part of the petitioner, is deprecated.

9.In the result, the writ petition is dismissed with cost of Rs,3,500/- (Rupees Three Thousand and Five Hundred Only) payable to the Registered Recognized Clerk Association, Sivagangai District, within a period of three weeks from the date of receipt of a copy of this order.

10.Call on **26.08.2020**, for 'reporting compliance'.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

DSS/VS

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,
Collector Office,

<https://hcservices.hcscourts.gov.in/hcservices/>
Sivagangai District.



2.The District Adi Dravidar and Tribal Welfare Officer,
Sivagangai District.

3.The Tahsildar,
Sivagangai Taluk,
Sivagangai District.

4.The Special Tahsildar,
Adi Dravidar Welfare,
Sivagangai.

5.The Village Administrative Officer,
Paiyoor Pillai Vaiyal Village,
Paiyoor Pillai Vaiyal Group,
Sivagangai District.

6.The President/Secretary,
Advocates' Clerk Association,
Sivagangai District Court Campus, Sivagangai.

Copy to : The Section Officer, Writ Section,
Madurai Bench of Madras High Court, Madurai.
(To List on 26/08/2020 as directed)

W.P (MD) No.11971 of 2017
29.07.2020

KK (05.08.2020) 4P 8C