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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

W.P. No. 5424 of 2021

Murugan

... Petitioner

Vs.

1. The District Collector
Office of the District Collector
Krishnagiri District.
2. The Tahsildar
Office of the Thasildhar
Burgoor Taluk
Krishnagiri District.
3. The Revenue Inspector
Office of the Revenue Inspector
Burgoor, Burgoor Taluk
Krishnagiri District.
4. The Village Administrative Officer
Office of the Village Administrative
Samayapuram Village
Burgoor Taluk
Krishnagiri District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the First Respondent to take action against the Revenue Officials pursuant to the Petitioner's complaint dated 29.01.2020 in accordance with law.

For Petitioner : Mr. S.Arivazhagan

For Respondents: Mr.P.Balathandayutham
State Government Counsel



ORDER

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

The Petitioner has come before this Court seeking of Writ of Mandamus, directing the First Respondent to take action against the Revenue Officials, who said to have demolished the Petitioner's house, which has been constructed at Samayaputam Village, Oppathavaadi, Burgoor Taluk, Krishnagiri District comprised in Survey No. 428/7 measuring an extent of 1 cent.

2. According to the Petitioner, leaving other encroachers, the Petitioner's house alone has been demolished. Therefore, the Petitioner gave a representation date 29.01.2020, to take action against the Revenue Officials. Moreover, a lawyer notice was also issued, on 06.02.2020. Since no action has been taken, the Petitioner has come before this Court.

3. Heard Mr. S.Arivazhagan, Learned Counsel for the Petitioner and Mr. P.Balathandayutham, Learned State Government Counsel, who takes notice for the Respondents, and perused the materials placed on record, apart from the pleadings of the parties.

4. It is evident from paragraph no.2 of the Affidavit filed by the Petitioner that the Petitioner encroached upon the Government Poramboke land and constructed a house comprised in Survey No.428/7. It has been stated in paragraph no.7 of the Counter-Affidavit that the Petitioner is residing in a house comprised in Survey No. 428/31 of Opathavaadi village. The Petitioner's mother Tmt.Lakshmi had got a house in Survey No. 428/7 of Oppathavaadi. Thus, the Petitioner, his wife and mother have already got two houses in the Opathavaadi village. Paragraph 7 of the Counter-Affidavit is extracted as follows:-

"7. It is submitted that the averments made in para 2 of the affidavit are not correct. The Petitioner is residing in a house in S.No.428/31 of Opathavadi village. The Petitioner's mother Tmt. Lakshmi had got house in S.No. 428/7 of Opathavadi village. Thus, the Petitioner, his wife and mother has already got 2 houses in the village. The Petitioner had encroached an extent of 0.00.81 square meter of Government land in S.No. 428/1A of Opathavadi village and causing great inconvenience to the public. This respondent has not taken any action to evict the house of the Petitioner in the land in S.No. 428/7 and 428/31 of Opathavadi village."

From the above, it is clear that the Petitioner's mother and the Petitioner have already got two houses in the same village. In spite of that, the Petitioner with greed encroached upon the



Government Poramboke land and constructed a house therein and therefore, the Petitioner's house/super structure has been demolished, only after giving notice under Section 7 of the Tamil Nadu Land encroachment Act by following due process of law. Therefore, the demolition cannot be found fault with. That apart, an order has already been passed on 22.03.2020 on the Petitioner's representation dated 29.01.2020. In view of that, the prayer sought for in this Writ Petition has become infructuous.

5. For the reasons stated above, this Writ Petition is liable to be dismissed. However, the case of the Petitioner also is that no action has been taken against similarly placed persons, who encroached upon the Government Poramboke land. Hence, while negating the prayer of the Petitioner, this Court directs the Respondents to inspect the same village and find out the encroachers, who are occupying the said Government Poramboke land and take action them, after giving due notice as per law, within a period of 12 weeks from the date of receipt of a copy of this Order.

6. With the above direction, this Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

Maya

To

1. The District Collector
Office of the District Collector
Krishnagiri District.
2. The Tahsildar
Office of the Thasildhar
Burgoor Taluk
Krishnagiri District.
3. The Revenue Inspector
Office of the Revenue Inspector
Burgoor, Burgoor Taluk
Krishnagiri District.



4. The Village Administrative Officer
Office of the Village Administrative
Samayapuram Village
Burgoor Taluk
Krishnagiri District.

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+1cc to Mr.S.Arivazhagan, Advocate, S.R.No.28347
+1cc to the Government Pleader, S.R.No.28515

W.P. No. 5424 of 2021

PL(CO)
CB(16/07/2021)