

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 02.02.2021

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

WP.No.2077/2021
[Video Conferencing]

K.Rathinam .. Petitioner
Versus

1.The District Collector,
District Collector Office
Coimbatore - 18.

2.The Tahsildar
O/o.The Tahsildar
Aanamalai Taluk,
Coimbatore District.

3.The Revenue Inspector
Kottur, Pollachi
Coimbatore District.

... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the 1st and 2nd respondents to consider the petitioner's representation dated 29.12.2020 in accordance with law after conducting discrete enquiry pursuant to the specific directions given by this Court in WP.No.16554/2020 dated 24.11.2020.

For Petitioner : Mr.C.Veeraraghavan

For RR 1 to 3 : Mr.R.Vijayakumar
Additional Government Pleader

ORDER

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

(1)By consent, the writ petition is taken up for final disposal and is disposed of by this order.

(2)Mr.R.Vijayakumar, learned Additional Government Pleader

accepts notice on behalf of the respondents 1 to 3.

(3)One Baby @ Rajamani, on an earlier occasion, filed WP.No.16554/2020 against respondents 1 and 2 herein as well as against one Mylsamy and K.Ravikumar, praying for a writ of mandamus, directing respondents 1 to 3 therein to take appropriate action to remove the encroachment caused by the private respondents and others by planting trees on the Government poramboke odai and pathway comprised in SF.Nos.359 and 353 at Jallipatti Village, Anaimalai Taluk, Coimbatore District within an appropriate time. The said writ petition was disposed of on 24.11.2020 and it is relevant to extract paragraphs No.7 and 8 of the said order:-

"7.This Court, taking into consideration the 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 3rd respondent, in coordination with the Block Development Officer, Anaimalai Taluk, to cause inspection of the water way in SF.Nos.359 and 353 situate in Jallipatti Village and if the result of the inspection discloses any encroachment, which may include respondents 4 and 5, they have to take immediate, necessary and appropriate action in accordance with law and remove the encroachment.

8.In the light of the order of interim direction dated 28.04.2017 made in WP.No.10614/2017 and WP [MD] Nos.20767, 18748/2013 ; 14699, 16485/2015, 3075, 4646, 5456, 2847/2017 and Cont.P.[MD] Nos.1340/2014 and 773/2017, the above said officials, in the event of noting the wild growth of exotic weeds, which may include Propis Julifora, shall also take necessary steps to clear the same and clear the water way so that during rainy seasons, there may be free flow of water which may reach the tank at Jallipatti village. The said officials shall carry out the entire exercise within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner, respondents 4 and 5 as well as any other person/s concerned."

(4)The learned counsel for the petitioner would submit that the

son of the petitioner is having patta lands in Jallipatti Village bearing Patta Nos.54 and 815 and adjacent to the said lands on the eastern side, in S.Nos.353 and 359, there exist "Odai Poramboke" and between the lands of the son of the petitioner and Odai Poramboke, 25 fully grown coconut trees are there and for the past 25 years, the son of the petitioner has been granted 2C Patta in respect of usufruct of the said trees and under the garb of complying with the order dated 24.11.2020, made in WP.No.16554/2020, the 3rd respondent has issued the impugned notice under Section 5 of the Tamil Nadu Land Encroachment Act, 1905 and if an opportunity is given, the petitioner may be in a position to explain his stand and prays for appropriate orders.

(5) The learned Additional Government Pleader appearing for respondents 1 to 3 would submit that action is being taken in accordance with law and the petitioner may not have any grievance and prays for dismissal of this writ petition.

(6) This Court has considered the rival submissions and also perused the materials placed before it.

(7) This Court, taking into consideration, the limited scope of prayer sought for by the petitioner and without going into the merits of the claim projected by him in this writ petition, directs the petitioner to submit a representation by enclosing the relevant and authenticated documents within a period of two weeks from the date of receipt of a copy of this order / uploading of the order in the website to respondents 1 and 2 and the 2nd respondent, upon receipt of the same, shall consider the said representation after putting on notice, the petitioner in WP.No.16554/2020, viz., Baby @ Rajamani and give a disposal in accordance with law within a further period of two weeks thereafter and communicate the decision taken, to the petitioner herein as well as to the petitioner in WP.No.16554/2020, viz., Baby @ Rajamani. The respondents 2 and 3, till the disposal of the said representation submitted by the petitioner, shall defer further decision in terms of the impugned notice dated 18.01.2021 and it is made clear that the petitioner, till the disposal of the representation by the 2nd respondent, shall not create any third party rights in respect of the lands and coconut trees in question.

(8) The writ petition stands disposed of accordingly. No costs.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

AP

To

1.The District Collector,
District Collector Office
Coimbatore-18.

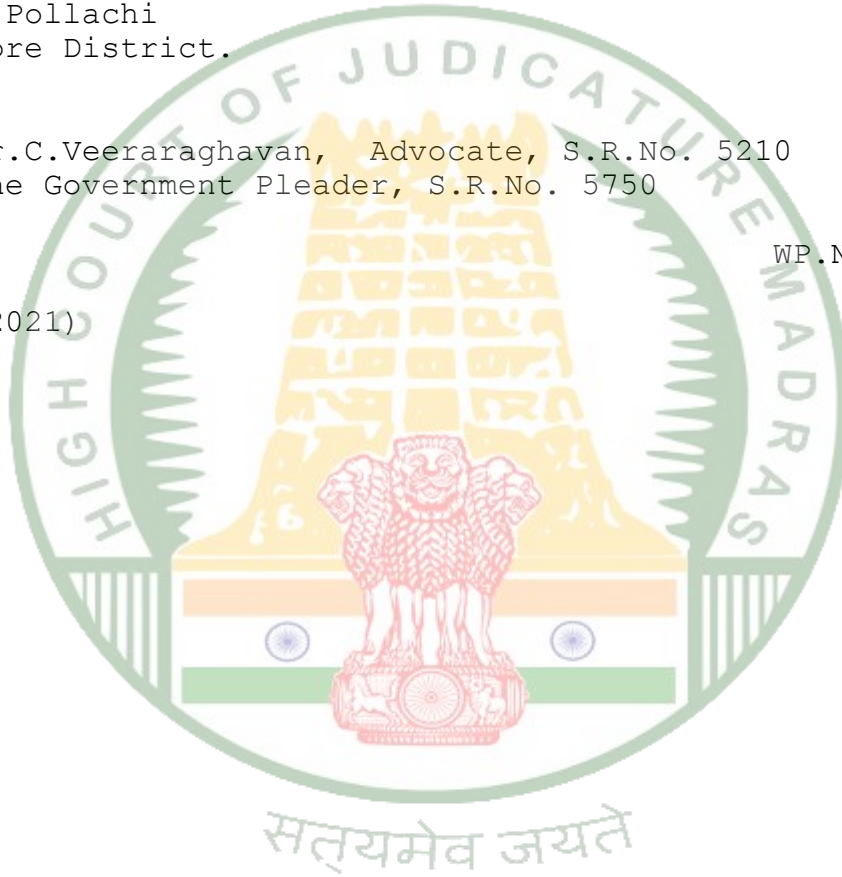
2.The Tahsildar
O/o.The Tahsildar
Aanamalai Taluk,
Coimbatore District.

3.The Revenue Inspector
Kottur, Pollachi
Coimbatore District.

+lcc to Mr.C.Veeraraghavan, Advocate, S.R.No. 5210
+lcc to the Government Pleader, S.R.No. 5750

WP.No.2077/2021

AK(CO)
GN(19/03/2021)



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