

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.03.2021

CORAM

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

WP.No.5763/2021 & WMP.No.6359/2021

M.Baskar

.. Petitioner

Versus

- 1.The Government of Tamil Nadu
rep. By its Secretary,
Department of Revenue
Fort St George, Chennai 600 009.
- 2.The District Collector,
Office of the District Collector,
Chennai.
- 3.The Tahsildar
Thiruvottiyur Taluk
Thiruvottiyur.
- 4.Chennai Metropolitan Development Authority
represented by its Chairman
No.1, Gandhi Irwin Road,
Egmore, Chennai 600 008.
- 5.Tamil Nadu Slum Clearance Board
rep.by its Chairman
No.5, Kamarajar Salai, Chennai 600 005.
- 6.A.P.Chirstal @ Jaya

.. Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus forbearing the 3rd respondent from evicting the petitioner from the land comprised in S.Nos.322/1 and 331/1 at 148, Idayan Savadi Village, Manali New Town Post, Thiruvottiyur Taluk, Chennai District without following due process of law.

For Petitioner :	Mr.T.Ramkumar
For RR 1 to 3 :	Mr.R.Vijayakumar
	Additional Government Pleader
For R4 :	Mrs.P.Veena Suresh

For R5 : Standing counsel
Ms.D.Latha, Standing counsel

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 ; M/s.P.Veena Suresh, learned Standing counsel accepts notice on behalf of the 4th respondent and Ms.D.Latha, learned standing counsel accepts notice on behalf of the 5th respondent.
- (3) Admittedly, the petitioner is an encroacher of the land classified as 'village site' in S.No.322/1, admeasuring to an extent of 0.20 cent out of a larger extent of 0.37.5 Hectares at Idayanchavadi Village, Ponneri Taluk, Tiruvallur District. It appears that the petitioner has started a Trust under the name and style of 'Shri Karumari Amman Nagadevadai Alayam' and also put up a superstructure without getting clearance from the jurisdictional District Collector and without Planning Permission. The petitioner, apprehending dispossession at the hands of private respondent, had filed OS.No.131/2016 against the 6th respondent herein, viz., A.P.Christal @ Jaya and 4 others, on the file of the Court of District Munsif, Ponneri, praying for permanent injunction, restraining the defendants therein from interfering with the peaceful possession and enjoyment of the said property and as on date, there are no interim orders in operation. The 1st defendant in the said suit, had also filed WP.No.5523/2016 against the official respondents as well as against the petitioner and others, praying for appropriate direction to remove the encroachment caused by respondents 4 to 11 therein on the land classified as water channel in S.No.331/1 of Idayanchavadi Village, Ponneri Taluk, Tiruvallur District, by considering the representation dated 27.11.2017 and the said writ petition has been disposed of with a direction by giving opportunity to the persons concerned in the form of notice and thereafter, give a disposal in accordance with law.
- (4) The primordial submission of the learned counsel for the petitioner is despite the fact that the petitioner is an encroacher, attempts are being made to dispossess him from the land in question without recourse to law and hence, prays for appropriate orders.
- (5) Per contra, Mr.R.Vijayakumar, learned Additional Government Pleader appearing for respondents 1 to 3 would submit that it is the admitted case of the petitioner that he is an encroacher and as such, he cannot claim any right over the land in question and further points out that he is also guilty of putting up an unauthorised construction in the form of a

religious structure without getting planning permission and clearance from the jurisdictional District Collector and as such, action is rightly taken by the official respondents and hence, prays for dismissal of this writ petition.

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

(7) It appears that the petitioner is an encroacher and under the garb of running ''Sri Karumari Amman Nagadevadai Alayam'' Trust, appears to have put up an unauthorised religious structure without any Planning Permission and without getting clearance from the jurisdictional District Collector. The petitioner, who is an encroacher, has no right whatsoever to put up an unauthorised structure and therefore, in the considered opinion of the Court, action has been taken rightly.

(8) Nowadays, it has become a habit of the encroachers by insisting the respondents to follow the law, forgetting the fact that they are also under equal obligation to follow the law and in the considered opinion of the Court, encroachment upon a public land cannot be construed to be a lawful act/exercise.

(9) This Court, in the light of the reasons assigned above and facts and circumstances, is of the considered view that there is no merit in this writ petition.

(10) In the result, the writ petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

AP

To

1.The Secretary, Government of Tamil Nadu,
Department of Revenue
Fort St George, Chennai 600 009.

2.The District Collector,
Office of the District Collector,
Chennai.

3.The Tahsildar
Thiruvottiyur Taluk
Thiruvottiyur.

4.The Chairman

Chennai Metropolitan Development Authority
No.1, Gandhi Irwin Road,
Egmore, Chennai 600 008.

5.The Chairman

Tamil Nadu Slum Clearance Board
No.5, Kamarajar Salai, Chennai 600 005.

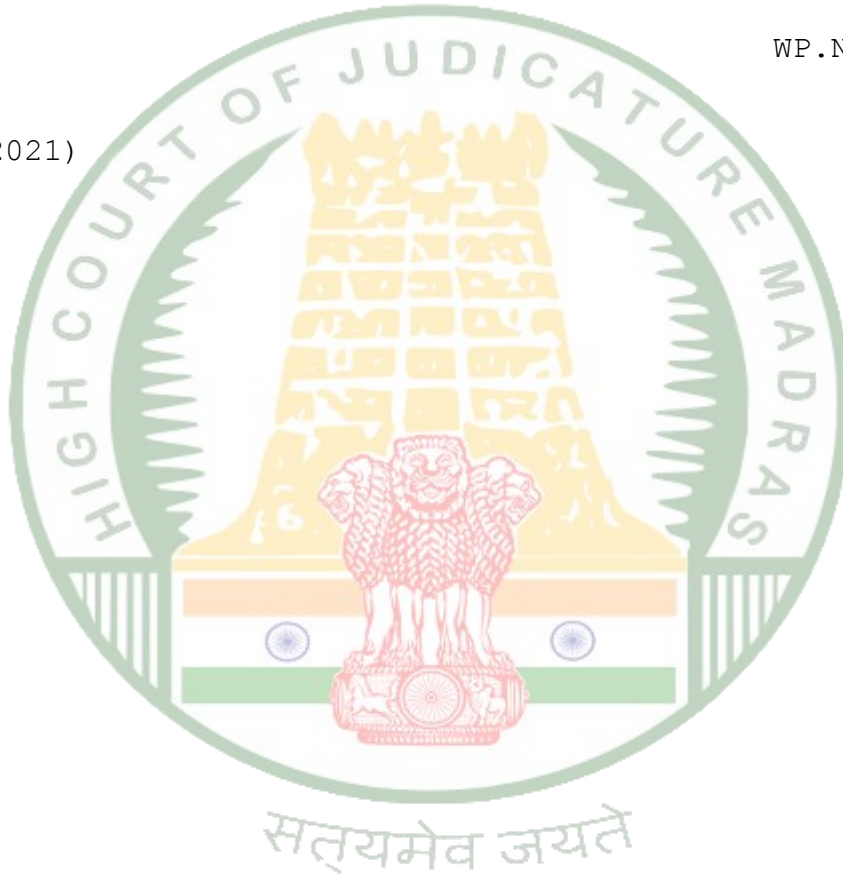
+1cc to Mr.T.Ramkumar, Advocate, S.R.No.15381

+1cc to M/s.P.Veenasuresh, Advocate, S.R.No.15463

+1cc to the Government Pleader, S.R.No.15818

WP.No.5763/2021

PMK(CO)
CB(09/04/2021)



WEB COPY