



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2021

CORAM :

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

W.P. No. 12705 of 2021

Mr. N.Munuswamy

...Petitioner

Vs

1. The Secretary
Rural Development and Panchayatraj Department
Saint George Fort
Chennai - 600 009.
 2. The District Collector
Office of the District Collector
Thiruvallur District - 602 001.
 3. Block Development Officer
Office of the Block Development Office
Ekkadu
Thiruvallur Taluk and District - 602 021.
 4. The Thasildhar
Office of the Thasildhar
Thiruvallur Taluk and District - 602 001.
 5. C.Selvakumar
 6. C.Sengottaiyan
- Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, directing the Respondents 2 to 4 to consider and dispose Petitioner's representation dated 16.03.2020 and thereby, directing the Second to Fourth Respondents to remove the encroachment made by the Fifth and Sixth Respondents over the public well situated at Dr. Ambedkar Street, Thozhur Village, Thiruvallur Taluk and District (within old Survey No. 418, New Survey No. 645 of Thozhur Village well within the jurisdiction of SRO, Thiruvallur).



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For Petitioner : Mr. R.Rangarajan

For Respondents : Mr. P.Balathandayutham
Standing Counsel

O R D E R

(Order of the court was made by N.KIRUBAKARAN.J.,)

The matter was heard through "Video Conference".

2. The Petitioner has come before this Court alleging that the private respondents have encroached upon the land, in which the public well situated at Dr. Ambedkar Street, Thozhur Village, Thiruvallur Taluk (within old Survey No.418 and New Survey No. 645 of Thozhal Village well within the jurisdiction of SRO, Thiruvallur).

3. Learned Counsel for the Petitioner submits that there is a public well situated in the above survey number and it has been encroached upon by the private respondents and sale deed has also been executed, which has been registered illegally. In this regard, the Petitioner has given a representation dated 16.03.2020 to the Second to Fourth Respondents to remove the encroachments made by the Fifth and Sixth Respondents. Since no action has been taken, the Petitioner has come before this Court seeking writ of Mandamus.

4. Heard Mr. R.Rangarajan, Learned Counsel for the Petitioner and Mr. P.Balathandayutham, Learned State Government Counsel, who takes notice for the First to Fourth Respondents and perused the materials placed on record, apart from the pleadings of the parties.

5. It is evident from the records, especially that information provided under the Right to Information Act dated 08.10.2020 that the public well, which was situated in old survey No. 418, new survey No. 645 of Thozhur village has been encroached upon as per the A-Register, which reflects the said well. After inspection, it is found that the said well has been encroached upon. In this regard already notice has been given on 29.01.2020 by the authorities to the Respondents. In view of the lock down, no steps could be taken by the authorities to remove the said encroachers. In view of the above admitted position, it is appropriate to direct the authorities to give notice to the encroachers and conduct enquiry, pursuant to the notice already issued on 29.01.2020 and give opportunity of personal hearing and pass appropriate orders to remove the said encroachment made by the private parties and restore the well.



The aforesaid exercise shall be completed within a period of 12 weeks from the date of receipt of a copy of this order. Moreover, the authorities are directed to send notices to the Registering authorities to cancel the alleged sale deed, if any, in respect of the aforesaid property. It is made clear that no order could be passed without giving notice and without hearing the parties. If any order is passed without giving notice and without hearing the private respondent, it would amount to contempt of court and the parties are directed to initiate contempt proceeding for having violated the court order.

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

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
Rural Development and Panchayatraj Department,
Saint George Fort,
Chennai - 600 009.
2. The District Collector,
Office of the District Collector,
Thiruvallur District - 602 001.
3. Block Development Officer,
Office of the Block Development Office,
Ekkadu,
Thiruvallur Taluk and District - 602 021.
4. The Thasildhar,
Office of the Thasildhar,
Thiruvallur Taluk and District - 602 001.

+1cc to the Government Pleader Sr.28140
+1cc to Mr.R.Rangarajan, Advocate Sr.28095

W.P. No. 12705 of 2021

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srg 22/07/2021