

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.09.2021

CORAM:

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

WP NO.17776 OF 2016

AND

WMP NO.15459 OF 2016

S.Vijayakumar

.. Petitioner

Vs

The Colnel (Q),
Officers Training Academy,
St. Thomas Mount, Chennai - 16.

.. Respondent

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, forbearing the respondent from interfering with the possession and enjoyment of the lands in S.No.91 & 190, Nandambakkam, St. Thomas Mount, Chennai - 16, until alternative residential land is given by the respondent.

For Petitioners : Mr.G.Appavu

For Respondent : Mr.R.Rajesh Vivekanandan

O R D E R

The relief sought for in the present writ petition is to forbear the respondent from interfering with the possession and enjoyment of the petitioner's lands in S.No.91 & 190, Nandambakkam, St. Thomas Mount, Chennai - 16, until alternative residential land is given by the respondent.

2. The petitioner claims right over the subject property mentioned in the writ petition. However, the learned counsel

for the respondent brought to the notice of this Court that the entries in the Adangal Register extract establishes that the subject property belongs to Ministry of Defence and the land is under the control of the Indian Army.

3. Further, the relief as such sought for in the writ petition is absurd and cannot be granted in view of the fact that the dispute is of civil nature. The petitioner has not established even a semblance of legal right so as to consider the relief as such sought for in the writ petition. Contrarily even through the document filed by the petitioner, the respondent has pointed out that the land belongs to the Ministry of Defence (Indian Army)

4. This being the factum, the petitioner is not entitled for any relief and if at all the petitioner has encroached the defence land, he is liable to be evicted by the competent authority in the manner known to law.

5. The learned counsel for the respondent brought to the notice of this Court that the petitioner belongs to a political party and was an elected Councilor. If so, stern action is warranted against such elected person by the competent authority. Persons opting to do public services in the society are expected to maintain good conduct and integrity at all circumstances. No doubt, political parties are ambitious in holding power in the Government. If such persons are not up to the mark, then it would be a threat to the democracy of our great Nation. The elected members from the political party involving in encroachment of government land, misappropriation of public funds and causing inconvenience to the public, are to be viewed seriously and stern actions are to be initiated by the Executives, as Executives are duty bound to act independently under the Indian Constitution, in such circumstances.

6. Public services are to be done in a dedicated manner. Our country had renowned Statesman and presently, it is rare to identify the Statesman, but we are witnessing only the politicians. Thus, the elected members are always to be reminded off about the fundamental duties as enunciated under Article 51A of the Indian Constitution. An elected member in any society declaring himself as a public warrior and claiming himself that he is doing yeoman services, then equally he is

expected to maintain good conduct and bound to act only in the interest of the public.

7. Under these circumstances, the respondent is directed to conduct inspections and in the event of identifying any encroachment in government properties, then stern action is to be initiated and evict such encroachers by following the procedures, as contemplated.

8. With the above directions, the writ petition stands dismissed. No Costs. Consequently, the connected Writ Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-IX)

// True Copy //

Sub Assistant Registrar

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To

The Colnel (Q),
Officers Training Academy,
St. Thomas Mount, Chennai - 16.

WP No.17776 of 2016

PCH(CO)
RLP(22/10/2021)