

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 17.03.2021

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN  
AND

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

WP.No.6877/2021  
& WMP.No.7425/2021

Prabakaran

.. Petitioner

Versus

1.The District Collector  
Nagapattinam.

2.The District Collector,  
Mayiladuthurai.

3.The District Revenue Officer,  
Nagapattinam.

4.The Revenue Divisional Officer,  
Mayiladuthurai.

5.The Tahsildar,  
Mayiladuthurai.

6.Loganathan

.. Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondents 1 to 5 more particularly 5<sup>th</sup> respondent to remove the encroachment in classified Kalam [Thrashing Floor] in Survey No.222/1, situated in Kadakam Village, Kiliyanur Post, Tharangambadi Taluk, Nagapattinam District, [now Mayiladuthurai District].

For Petitioner : Mr.S.Sounthar

For RR 1 to 5 : Mr.S.Kamalesh Kannan  
Government Advocate

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.S.Kamalesh Kannan, learned Government Advocate accepts notice on behalf of the respondents 1 to 5.

- (3) The learned counsel for the petitioner would submit that the land admeasuring to an extent of 1.65 acres in S.No.222/1 in Kadakam Village, Tharangambadi Taluk, Nagapattinam District, is classified as ''Kalam'' [Thrashing Floor] in the revenue records and also drawn the attention of this Court to the ''A'' Register pertains to the said Village.
- (4) The primordial submission made by the learned counsel for the petitioner is that despite very many representations submitted to the concerned official respondents followed by a memo dated 09.05.2018 in Aa.Tha.Pa.No.20/2018/A5 sent by the office of the 4<sup>th</sup> respondent to the 5<sup>th</sup> respondent to take appropriate action and that apart, similar Memo dated 26.11.2019 in O.Mu.No.20546/2016/U004 addressed by the office of the 1<sup>st</sup> respondent to the 5<sup>th</sup> respondent to take appropriate action, nothing is moving forward and left with no other option only, the present writ petition is filed.
- (5) Attention of this Court has also been invited to the latest Memo dated 26.02.2020 in Na.Ka.No.02758/2020/ C4 sent by the office of the 1<sup>st</sup> respondent to the 5<sup>th</sup> respondent once again to take appropriate action. In sum and substance, it is the submission of the learned counsel for the petitioner that despite the above said directives issued by the superior officials, the 5<sup>th</sup> respondent took a conscious decision, not to obey the directive, issued by the superior officials and apart from praying for appropriate direction, directing the 5<sup>th</sup> respondent to consider and dispose of the grievance expressed by the petitioner as to the removal of the encroachment on the land in S.No.222/1 of Kadakam Village, appropriate disciplinary action should also be initiated against the 5<sup>th</sup> respondent and hence, prays for appropriate orders.
- (6) Mr.S.Kamalesh Kannan, learned Government Advocate appearing for respondents 1 to 5 would submit that in the light of various communications issued by the office of respondents 1 and 4 to the 5<sup>th</sup> respondent to take a call as to the removal of the encroachment and would definitely complete the said exercise within the stipulated time frame.
- (7) This Court has considered the rival submissions and also perused the materials placed before it.
- (8) This Court is repeatedly pointing out that the jurisdictional Revenue Officials nowadays become totally insensitive to the representations expressing grievance as to the removal of the encroachment etc., and the present case is a classic example. A perusal of the typed set of documents would disclose that despite repeated communications emanate from the offices of respondents 1 and 5 by directing the 5<sup>th</sup> respondent to look into the issue and take appropriate action, the 5<sup>th</sup> respondent prima facie appears to have not taken any action despite a lapse of nearly two years and odd.
- (9) If the subordinate officer is not in the habit of obeying the directives issued by the superior officers, at least a

Memo should have been issued calling for an explanation as to why he is not taking action and in this case, no such steps appears to have been taken either by the office of the 1<sup>st</sup> respondent or by the 2<sup>nd</sup> respondent.

(10) Be that as it may, 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 5<sup>th</sup> respondent to cause survey and inspection of the land in S.No.222/1 of Kadakam village, Tharangambadi Taluk, Nagapattinam District, with the aid of the revenue records and after putting the petitioner as well as the 6<sup>th</sup> respondent on notice, shall take immediate, necessary and appropriate action in accordance with law, in the light of the latest directive in the form of Memo dated 26.02.2020 in Na.Ka.No.02758/2020/ c4 issued by the office of the 1<sup>st</sup> respondent, by also adhering to the principles of natural justice and complete the said exercise within a period of ten weeks from the date of receipt of a copy of this order/uploading of the order in the website and communicate the decision taken, to the petitioner, 6<sup>th</sup> respondent and any other person/s concerned.

(11) The writ petition stands disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

AP

To

- 1.The District Collector, Nagapattinam.
- 2.The District Collector, Mayiladuthurai.
- 3.The District Revenue Officer, Nagapattinam.
- 4.The Revenue Divisional Officer, Mayiladuthurai.
- 5.The Tahsildar, Mayiladuthurai.

+1cc to Mr.S.Sounthar, Advocate, S.R.No. 17172

WP.No.6877/2021

PCH (CO)

GN (09/04/2021)

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