



WEB COPY

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No19771 of 2016 and
W.M.P.Nos.17076 to 17078 of 2016 and
Contempt Petition No.750 of 2017

WP.No.19771 of 2016

P.Singaravelu

... Petitioner

Vs

1. The District Collector,
Kancheepuram District,
Kamcheepuram.
2. The Tahsildar,
Alandur,
Chennai.
3. The Revenue Divisional Officer,
Tambaram,
Chennai - 600 045.
4. The Taluk Surveyor,
Alandur Sub-Registrar Officer,
Alandur, Chennai.
5. The Commissioner,
The Greater Chennai Corporation,
Corporation Buildings,
Chennai - 600 009.
6. The Estate Officer,
The Defence Ministry,
Fort St. George,
Chennai.
7. The H Colonel
Officers Training Academy,
St. Thomas Mount,
Chennai - 600 016.



8. The Commissioner,
Hindu Religious Charitable and Endowment Department,
119, Uthammar Gandhi Salai,
Nungambakkam, Chennai 600 034. ... Respondents
(R8 is impleaded as per order dated 27/06/2016
by this Court in WMP.No.17931 of 2016 in WP.No.19771 of 2016)

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the entire records of the District Collector dated 17.12.1987 in assigning the lands notified and classified as Government Promboke in the Revenue A Register S.F.No.89, 90, 96, 97, 98, Tulasingapuram at Nandambakkam within Chennai Corporation limits on the file of District Collector, Kancheepuram and quash the same and consequently direct the respondents 1 to 4 to measure ear mark the lands in S.F.No.89 East West 357 feet and North South 45 feet and in S.F.No.90 North South 316 feet East West 45 feet as approach road direct the respondent 5 to lay a pucca approach road as per Section 203 and 204 of the Chennai City Municipal Corporation Act and further direct the 2 respondent Tahsildhar to change the patta in the name of the Corporation Chennai further direct the respondents 1 to 5 to construct immediately

1. Public Convenience Toilets
2. A Elementary Schools from Standard 1 to 5
3. A Community Centre and
4. A Temple.

As before in S.F.No.96, 97 and 98 Tulasingapuram, Nandambakkam, Ward 158 Chennai Corporation limits, Chennai 600 016.

AND

Cont.P.No.750 of 2017

P.Singaravelu

.. Petitioner

Vs.

- 1.R.Gajalakshmi, I.A.S.,
The District Collector,
Kancheepuram District,
Kancheepuram.
- 2.Karthikeyan,
The Commissioner,
The Greater Chennai Corporation,
Corporation Buildings,
Chennai - 600 009.



3.The Estate Officer,
The Defence Ministry,
Fort St. George, Chennai.

4.Shiva
The H Colonel,
Officers Training Academy,
St. Thomas Mount,
Chennai-600 016.

.. Respondents

PRAYER: Contempt Petition filed under Section 11 of the Contempt of Courts Act, 1971, praying to punish the respondents 3 & 4 and the 2nd respondent from granting permission to put up construction of compound wall after the order of Status quo order dated 14.06.2016 in W.P.No.19771 of 2016 under the provisions of contempt of Courts Act and the rules framed thereunder.

For Petitioner :M/s.P.Bagyalakshmi
[in both cases]

For Respondents :Mr.C.Selvaraj
Additional Government Pleader
[For R1 to R4 in WP.19771/2016]
[For R1 in Cont.P.750/2017]

Mr.M.Ganesan
[For R5 in WP.19771/2016]
[For R2 in Cont.P.750/2017]

Mr.A.Kumaraguru
Senior Panel Counsel
[For R6 and R7 in WP.19771/2016]
[For R3 & R4 in Cont.P.750/2017]

R8- No appearance

M/s.T.Geethanjali
Advocate Commissioner

COMMON ORDER

The lis on hand has been instituted questioning the entry made in revenue records by the District Collector dated 17.12.1987, thereby assigning the lands notified and classified as Government Poramboke in the Revenue 'A' Register S.F.Nos. 89, 90, 96, 97, 98, Tulasingapuram and Nandambakkam within Chennai Corporation limits on the file of the District Collector,



Kancheepuram and quash the same and consequently, direct the respondents 1 to 4 to measure ear mark the lands in S.F.Nos.89 East West 357 feet and North South 45 feet and in S.F.No.90 North South 316 feet, East West 45 feet as approach road direct the respondent 5 to lay a pucca approach road as per Section 203 and 204 of the Chennai City Municipal Corporation Act and further direct the 2 respondent Tahsildhar to change the patta in the name of the Corporation Chennai further direct the respondents 1 to 5 to construct immediate Public Convenience Toilets, Elementary School from Standard 1 to 5, A Community Centre and a Temple. As before in S.F.No.96, 97 and 98 Tulasingapuram Nandambakkam, ward 158 Chennai Corporation limits, Chennai 600 016.

2. The petitioner has filed the present writ petition on his behalf and on behalf of the other residents of his colony, who are numbering nearly 2000 residents. The petitioner states that the residents of that locality belong to Schedule Caste and Schedule Tribe community and most backward Harijans.

3. The petitioner states that their predecessors were residing in that locality even during pre-independence and were engaged by the Britishers for menial jobs. The Chennai Corporation has assessed the property tax, water tax in respect of the residents, and they are paying all the charges punctually.

4. It is contended that pucca residential dwelling units are put up by the petitioner and the other persons in their patta lands at Tulasingapuram and their predecessors in title themselves were living from time immemorial.

5. The father of the petitioner has made a representation to the District Collector for assignment of the land to the colony people. The petitioner also submitted an application to assign the said land in favour of the people, who all are residing in that locality. It is further contended that as per the revenue records and 'A' Register, S.F.Nos.98, 95, 96, 97 are donated to Kothandarameswarar Temple and Ramalingeswarar Temple, which all are private temples being maintained by the residents of that locality. From 1900 to 1986 the lands belonged to the temple and thereafter it was classified as Government Poramboke in the year 1986 onwards in the revenue records.

6. The learned counsel for the petitioner strenuously contended that many people are residing there around the area and patta lands are also involved. The said land is in exclusive possession and enjoyment of the residents of that locality, that being the case, the District Collector has classified the land as "Government Poramboke" in the year 1986 and thereafter, the



petitioner and his father submitted applications to assign the said Government Poramboke land in their favour.

7. The learned counsel for the petitioner reiterated that the respondents 6 and 7 defence personnel are frequently interfering with the peaceful possession of the property by the petitioner and the other residents and they have constructed a compound wall thereby depriving the petitioner and other residents from passing through the road. In the event of constructing a compound wall by the respondents 6 and 7, the petitioner will not be in a position to use the road freely and therefore, the petitioner is constrained to move the present writ petition.

8. The learned counsel for the petitioner at the outset contended that the District Collector has no authority to change the classification of the land as "Government Poramboke" and further allotted the land in favour of the Defence Ministry, which is also not proper. Thus, the said revenue records issued in the year 1987 is to be quashed.

9. The learned counsel for the petitioner has stated that people of that locality are poor, downtrodden and in occupation of their residential premises, without even having minimum facilities and therefore, all such minimum facilities including Toilets and Schools are to be provided for the benefit of that people.

10. It was contended that an interim order of status quo was granted and the writ petitioner has filed a contempt petition in Contempt Petition No.750 of 2017 for the disobedience of the order of this Court by the respondents 6 and 7 by constructing compound wall. However, it is disputed by the learned Senior Panel Counsel by stating that the Compound wall in piecemeal was in existence, which is being maintained and no additional constructions were made during the pendency of the writ petition. In view of the dispute in this regard and considering the fact that the writ petition is pending for more than 5 years, this Court posted the main writ petition for final hearing along with the contempt petition so that quietus can be given to the issues raised between the parties.

11. The learned Senior Panel Counsel for the respondents 6 and 7 in response objected the contentions raised on behalf of the petitioner by stating that as per the revenue records, the Survey Numbers mentioned in the prayer in the writ petition is classified as "Defence land" and there is no dispute in that. If at all any patta land is there with the possession of the petitioner, it is for them to establish before the competent



revenue authorities and as far as the defence lands are concerned, the Defence Ministry is in possession of the land and they are entitled to construct compound wall for the protection of Defence properties and develop infrastructure facilities. As far as the defence land is concerned at present, the Officers Training Academy is functioning and various training programmes and activities are going on inside the premises. Therefore, security is of paramount importance and in the absence compound wall, it would be difficult for the Defence authorities to protect the Defence property. Thus, the writ petition is to be rejected in view of the fact that, even as per the revenue records the land in possession with the respondents 6 and 7 are classified as "defence lands" and the respondents 6 and 7 are not connected with the other portions of the lands, which all are claimed by the petitioner.

12. The learned counsel appearing on behalf of the 5th respondent Chennai Corporation made a submission that the Survey Numbers stated in the prayer in the Writ Petition is classified as "Defence land". Therefore, the petitioner cannot claim any right in respect of the defence land. The revenue records of the year 1987 is now challenged by the petitioner after the lapse of about 29 years and therefore, the writ petition is to be rejected on the ground of laches and further on the ground that the petitioner cannot claim any right in respect of the property, which is classified as "Defence land" as per the revenue records.

13. The learned Additional Government Pleader appearing on behalf of the respondents 1 to 4 relied on the counter affidavit filed by the second respondent has stated that there are encroachments in respect of the Government Poramboke lands in that locality. In the counter, the Tahsildar has elaborately stated that the encroachments made in the Government Property in the respective survey numbers.

14. It is contended that near about 200 encroachments are in Survey Nos. 91/1, 2 and 190 of the village and the encroachers are living with basic amenities provided by Chennai Corporation. It is clarified that the existing lands used by the petitioner's colony have not been disturbed as the people of that locality are using the land for many years. The Defence authorities are fencing their own lands in Nandambakkam Village at present. It is made clear by the Tahsildar that the Defence authorities have not made any attempt to disturb the other portion of the land, which is in occupation of the people of that locality. The compound wall is being constructed in such a way without



WEB COPY

Street in south-east direction. Tulasingapuram Main Road runs across S.No.94 towards south and then connects with Karumariamman Koil Street which runs towards east touching the southern border of S.No.94, 91/1, 190/1 and further towards Butt Road.

5. The petitioners are residing at S.No.91/2, 92, 94, 190/1 and 190/2. Butt Road, situated east of Tulasingapuram, is accessed only through Karumariamman Koil Street. The construction of compound wall in S.No.96 by the 7th Respondent will not have any correlation with the petitioners' access to Butt Road. The residents of Tulasingapuram would have access to Butt Road through Karumariamman Koil Street as before without any disruptions.

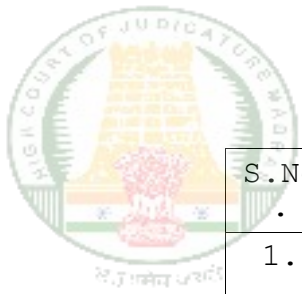
I am herewith returning my warrant of appointment along with this Report. I have also enclosed photographs/CD along with a rough map.

I have given this Report without any bias or interest towards either side and have rendered my duty with concise and to my complete satisfaction. I am deeply obliged to this Hon'ble Court for having given me this opportunity to gain more experience and strive for more accomplishments in the profession in future."

16. Along with the report, the Commissioner filed the sketch. Paragraph 3 of the report states that the Commissioner was informed that the construction of compound wall in Survey No.96 was halted pursuant to the interim order of stay granted by this Court in the present writ petition. Thus, the respondents 6 and 7 have not committed any contempt willfully so as to initiate further action on the contempt petition.

17. As far as the findings of the Commissioner is concerned, it states that "the construction of compound wall in Survey No.96 by the 7th respondent will not have any correlation with the petitioner's access to Butt Road. The residents of Tulasingapuram would have accessed to Butt Road through Karumariamman Kovil Street as before without any disruptions".

18. The Tahsildar / 2nd respondent in his counter affidavit has stated that some residents at Tulasingapuram have encroached the following lands and residing long time and the details are as follows:



WEB COPY

S.No	Survey No.	Extract Extension	Classification	Remarks
1.	94	0.60.5	Village site	37 Encroachers (Karumariamman Koil Street)
2.	92	0.15.0	Eri	10 Enroachers (Koothalamman Koil Street)
3.	91/2	0.45.5	Defence land	40 Enroachers (Koothalamman Koil Street)
4.	99/1	0.52.5	Arulmigu Koothalamman Koil (Patta)	40 Encroachers
5.	191/3A	0.37.5	Village site	16 Patta holders (Muthumariamman Koil Street)
6.	100	0.87.0	Patta land	200 Patta holders
7.	101	1.08.0	Patta land	

However, the encroachers have been provided with basic facilities such as Drinking Water, Electricity and Road by the Chennai Corporation.

19. In respect of the Nandampakkam village, the details of encroachments are stated as under:-

S.No	Survey No.	Extract Extension	Classification	No. of Encroches
1.	91/2	0.45.5	Defence Land	40
2.	92	0.15.0	Eri	10
3.	94	0.60.5	Village Site	37
4.	96	1.08.5	Defence land	No encroachments
5.	97/1	0.07.0	Defence land	
6.	97/2	0.11.0	Defence land	
7.	191/3A	0.37.5	Village site	16 patta holders



20. The 2nd respondent / Tahsildar in his counter has stated that any scheme for regularization or otherwise will have to be taken up by the Adi-Dravidar Welfare Department and it is to be considered as per the Rules in force. It is further stated in the counter that the Defence authorities are constructing the compound wall without making any hindrance to assess and without evicting existing encroachers in the defence land. It is contended that the averments of the petitioner in this regard are incorrect. It is stated that the subject land belongs to the Defence Department and the petitioner is an encroacher and therefore liable to be evicted.

21. The Writ petitioner and other families are residing in that locality. It is stated that people residing in that locality are Adi-dravidars. Thus, this Court of an opinion that the State Government should provide alternate accommodation or tenements by formulating schemes either through Tamil Nadu Urban Habitat Development Board or through Adi-dravidar Welfare Department as the case may. Contrarily, the defence land and the Government land which all are to be utilised for public purposes, can never be allowed to be encroached upon nor any such encroachment can be allowed to continue for an indefinite period, which is undoubtedly detrimental to the public interest.

22. The State Government being a Welfare State is bound to provide welfare schemes to the poor and down-trodden citizen of our great Nation. The State Government is periodically announcing schemes for the benefit of Adi-dravidars through Adi-dravidar Welfare Department. Lands at free of cost and tenements are provided to the poor landless people, who all are falling under the eligible categories stated under the Scheme by the Adi-dravidar Welfare Department. Thus, the eligible landless poor persons must be provided with an alternate accommodation through Schemes by identifying lands or tenements or otherwise in order to protect the livelihood of those people.

23. Contrarily, no one can be allowed to encroach upon the Defence land, more so in a prime location in Chennai City, when such lands are to be utilised for the benefit of public at large. Nation's security is the people's security. The Defence personnel are the protectors of our great Nation and the civilians and the respective State Governments are bound to protect the Defence activities. The importance and significance of the security of the Nation at no circumstances be undermined or compromised. Thus, wherever, the Defence lands are under encroachment, then the State Government is bound to evict the encroachers and hand over the lands to the Defence Department for the purpose of development of Defence activities.



24. In the absence of any compound wall in defence properties more specifically institutions like Officers Training Academy, it may not be possible for the Defence personnel to control or deal with the Civilians and their activities effectively. In such circumstances, the Defence personnel have to depend upon the local authorities and Police Departments. In order to avoid all such mitigating circumstances, the State Government should ensure that encroachments are removed from the Defence lands and all assistances are provided to the Defence authorities to construct compound wall in order to carry on their defence activities in a peaceful manner.

25. The writ petitioner filed the writ petition by stating that many other persons are residing in that locality. However, those persons are not parties to the writ petition. The Government is announcing various Welfare Schemes, allotting tenements, lands for construction of houses etc., for the benefit of Adi-draavidar people across the State of Tamil Nadu. The benefit of those schemes are to be extended to the people residing in that locality, who all are encroachers of the Defence land or the Government land. However, no encroacher of a public land can claim as a matter of right in respect of the Government land within the City or in a particular area, when such lands are allotted for Defence Department or for any public usage. Assignment of lands or tenements to be granted under the Welfare Schemes to be formulated by the Government by identifying suitable lands for the purpose of assignment.

26. Due to the developmental activities, expansion of roads, construction of public infrastructures, official building etc., the Government need land and in such circumstances, encroachments are bound to be removed. Even the Government is acquiring lands from private owners for the benefit of the public. In such circumstances, the encroached Government lands are to be utilised at the first instance by evicting the encroachers. Such encroachers if eligible, then they may be provided with an alternate accommodation / tenement or land under the Welfare Schemes by the Government of Tamil Nadu. Contrarily, the Defence land can never be allowed to be encroached, so also the Government land, once such lands are to be utilised for the welfare of the public at large and for implementation of public Schemes.

27. Public interest is paramount and, implementation of public schemes and the Development are to be made consistently. Thus, encroachments in urban areas are to be removed for



implementation of public schemes and the eligible landless / homeless persons with less income may be provided with alternate accommodation under various Schemes. Contrarily, the Government cannot encourage such encroachments, when such lands are allotted for defence purposes or for implementing Public Schemes. In this context, public right at large is to be recognised at the first instance. The public rights override the private rights under the Constitution. Thus, the Government is bound to initiate action against the encroachers, wherever the public rights are established.

28. As far as, the patta lands are concerned if any individual claim title or ownership in respect of their lands, it is for them to approach the competent Civil Court of Law for the purpose of establishing their title or ownership in respect of the property.

29. The relief sought for by the petitioner to quash the classification made in the Revenue records in the year 1987 deserve no merit consideration. As per the counter filed by the second respondent, the encroachments are to be removed and the encroached portion of the Defence lands are to be handedover to the Defence Department, and rest of the Government lands are to be utilised for public purposes. The encroachers if found eligible for allotment of any tenement or land as per the Welfare Schemes to be formed by the Department of Adi-draavidar Welfare, then such tenements can be allotted to the poor and down-trodden homeless people through Tamil Nadu Urban Habitat Development Board.

30. Regarding construction of compound wall by the respondents 6 and 7 are concerned, the Advocate Commissioner's report is unambiguous that construction of compound wall would not cause any hindrance to the people residing in that locality. In respect of the encroachments of defence land, the Defence authorities are empowered to remove the encroachments and construct compound wall for the protection of defence properties.

31. The State authorities including Police Department are bound to provide assistance and security to the Defence authorities for the purpose of evicting the encroachments in the Defence land and to protect the Defence land already allotted by the State Government.



32. It is the duty of the State Government to ensure that the lands allotted to the Defence Ministry, is protected as the Officers Training Academy is the prestigious Defence institution contributing for the security of our great Nation. Thus, the State Government is expected to act swiftly and remove all encroachments in the defence lands and provide all assistance to the Defence authorities to construct compound wall for the purpose of protection and maintenance of the Defence properties.

33. Considering the facts and circumstances, this Court is able to form a clear opinion that, the petitioner has not established any right for the purpose of granting the relief and further more the Survey Nos. mentioned in the prayer in the writ petition are classified as defence lands and such lands cannot be reclassified in favour of any private individuals. Accordingly, the following orders are passed:

(1) The relief as such sought for in the present writ petition stands rejected.

(2) The respondents 1 to 5 are directed to conduct survey with reference to the Revenue records and remove all encroachments in the defence land by following the procedures and hand over the defence land to the Defence authorities within a period of eight weeks from the date of the receipt of the copy of this order and provide assistance and protection to the Defence authorities for construction of compound wall in the defence land.

(3) The respondents 1 to 5 are directed to evict all encroachers from the Government lands by following the procedures and provide alternate accommodation by allotting tenements / land for the eligible poor, downtrodden people enabling them to get accommodation under the Government Welfare schemes. In this regard, if necessary a Special Scheme may be formulated by identifying suitable land or allotments are to be made through Tamil Nadu Urban Habitat Development Board or through the Schemes to be formulated by the Adi-dravidar Welfare Department of the Government of Tamil Nadu.

34. With the above directions, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.



WEB COPY

35. In view of the order passed in the writ petition, the contempt petition stands closed. No costs.

Sd/-

Assistant Registrar (CS-VII)

//True copy//

Sub Assistant Registrar

nti/vs
To

1. The District Collector,
Kancheepuram District,
Kancheepuram.
 2. The Tahsildar, Alandur, Chennai.
 3. The Revenue Divisional Officer,
Tambaram, Chennai - 600 045.
 4. The Taluk Surveyor,
Alandur Sub-Registrar Officer,
Alandur, Chennai.
 5. The Commissioner,
The Greater Chennai Corporation,
Corporation Buildings,
Chennai - 600 009.
 6. The Estate Officer,
The Defence Ministry,
Fort St. George, Chennai.
 7. The H Colonel
Officers Training Academy,
St. Thomas Mount,
Chennai - 600 016.
 8. The Commissioner,
Hindu Religious Charitable and
Endowment Department,
119, Uthammar Gandhi Salai,
Nungambakkam, Chennai 600 034.
- +lcc to Government Pleader SR.No.59548

W.P.No19771 of 2016 and
W.M.P.Nos.17076 to 17078 of 2016 and
Contempt Petition No.750 of 2017

SSI (CO)
GMY (10/12/2021)