

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.Nos.11246 of 2018 and 1197 of 2020

W.P.No.11246 of 2018

L.T.A. Peter Rayan ... Petitioner

Vs

- 1 The State of Tamil Nadu
Rep. by its Secretary to Government
Department of Revenue
Fort St. George
Chennai.
- 2 The Principal secretary
Commissioner of Land Administration
Chepauk, Chennai - 5.
- 3 The District Collector
Kancheepuram District
Kancheepuram.
- 4 Sampath
- 5 Varalakshmi
(R4 & R5 impleaded as per order dated
10.08.2018)
- 6 The Commissioner
Pallavaram Municipality
Chrompet
Chennai-600 044.
(R6 impleaded as per the order dated
3.3.2020 made in WMP.23576/2018 in
WP.11246/2018)

7 T.Chitra .. Respondents
(R7 impleaded as per the order dated
3.3.2020 made in WMP.821/2019 in
WP.11246/2018)

W.P.No.1197 of 2020:

L.T.A.Peter Rayan .. Petitioner

Vs

- 1 The State of Tamil Nadu
Rep. by its Secretary to Government
Department of Revenue
Fort St. George
Chennai.
- 2 The Commissioner for Land Administration
Chepauk, Chennai - 600005.
- 3 The District Collector
Chengalpat District
Chengalpat.
- 4 The Commissioner of Police
Greater Chennai Police
Vepery, Chennai - 600007.
- 5 The Inspector of Police
S-5, Pallavaram Police Station
Pallavaram
Chennai - 600043.
- 6 The Commissioner
Pallavaram Municipality
Chrompet, Chennai - 600 044.
- 7 Palani .. Respondents
(R6 and R7 impleaded as per order dated
3.3.2020 made in WMP.5103/2020)

Prayer in W.P.No.11246 of 2018: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records of the 3rd respondent in proceedings number Na.Ka.14590/2017/No1, dated 18.04.2018 quash the same and consequently direct the 3rd respondent to remove the encroachment made in the Erstwhile Bakri Manyam Canal in the Western dead end of Nagalakshmi Salai,

Thiruchendur Nagar, Old Pallavaram between Survey No.172 and Survey No.173 at Survey No.172/3A.

Prayer in W.P.No.1197 of 2020: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus to direct respondents 1 to 3 to demolish/remove the encroachment made at the eastern end of Nagalakshmi Salai, Thiruchendur Nagar, Old Pallavaram, Chennai - 600117.

For Petitioner in both : Mr.L.P.Maurya
writ petitions

For Respondents : Mr.R.J.Radhika
Government Advocate
for respondents 1 to 3
in W.P.No.11246 of 2018
and respondents 1 to 5
in W.P.No.1197 of 2020

Mr.P.Srinivas
for 6th respondent
in both writ petitions

COMMON ORDER

(Order of the Court was made by the Hon'ble Chief Justice)

The grievance in W.P.No.1197 of 2020 is that despite the respondent authorities recognising encroachment at the eastern end of Nagalakshmi Salai, Thiruchendur Nagar, Old Pallavaram, Chennai, no steps have been taken to remove the encroachment.

2. In W.P.No.11246 of 2018, the grievance is that an old water channel has been encroached on and, despite the respondent authorities acknowledging such encroachment, no steps have been taken to remove the same.

3. It is submitted on behalf of the State that though some encroachment on revenue land has been noticed at the western end of Nagalakshmi Salai pertaining to W.P.No.1197 of 2020, the removal has not been complete because the process takes time. The respondents say that the extent of the encroachment has been exaggerated by the writ petitioner, but to the extent there is any encroachment on government land, immediate steps are being taken for the removal of the encroachers.

4. As far as W.P.No.11246 of 2018 is concerned, the respondent authorities say that there is no encroachment as complained of by the writ petitioner since the parcels of land

referred are patta land held by private citizens. However, it is submitted by the respondent authorities that the subject land was an original waterway, though water has stopped flowing along such channel for a long time. The respondent authorities further submit that even though patta of such land is given as part of a larger piece of land, the relevant licensees are advised not to make any construction over what used to be the pathway through which water flowed. The respondent authorities also submit that the persons in occupation of such land formerly forming the pathway for water cannot be described as encroachers, though any construction put up on the erstwhile waterway may not be legal.

5. In view of such submission, the respondent authorities are directed to identify and demarcate the erstwhile waterway so that all construction made thereon can be immediately and expeditiously removed and the waterway restored in the hope that water may flow again down such route.

6. The local authorities in Thiruchendur Nagar, Pallavaram Municipality, will be responsible for ascertaining and demarcating what used to be the path for flowing water and as to whether any illegal construction has been put up thereat. If appropriate steps are not taken in respect of both the encroachment on revenue land and the illegal construction on erstwhile waterways, the petitioner will be entitled to complain to the District Collector for the District Collector to take immediate appropriate measures as deem fit.

7. The police authorities in Pallavaram will be responsible for ensuring the safety and security of the petitioner and should ensure that if there is any perception of threat faced by the writ petitioner, immediate adequate action is taken.

W.P.Nos.11246 of 2018 and 1197 of 2020 are disposed of on the above basis. There will be no order as to costs. Consequently, W.M.P.Nos.13151, 33675, 33833 of 2018 and 1466 of 2020 are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To:

- 1 The Secretary to Government
State of Tamil Nadu
Department of Revenue
Fort St. George
Chennai.
 - 2 The Principal secretary
Commissioner of Land Administration
Chepauk, Chennai - 5.
 - 3 The District Collector
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 - 7 The Commissioner of Police
Greater Chennai Police
Vepery, Chennai - 600007.
 - 8 The Inspector of Police
S-5, Pallavaram Police Station
Pallavaram
Chennai - 600043.
- +3ccs to M/s.S.Vaitheeswaran, Advocate, Sr.No. 7582

SMI (CO)
RMP (24/02/2021)

W.P.Nos.11246 of 2018 and 1197 of 2020