



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.07.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
AND
THE HONOURABLE MRS.JUSTICE S.KANNAMMAL

W.P.No.13577 of 2021

P.Kaliamoorthy

...Petitioner

Vs

1. District Collector,
Mayiladuthurai, District.
2. Revenue Divisional Officer,
Mayiladuthurai - 609 001,
Mayiladuthurai District.
3. Tahsildar,
Sirkali Taluk, Sirkali,
Mayiladuthurai District.
4. Ms.K.Jagan
5. Mrs.P.Shylamadevi
6. Ms.A.Selvakumar

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, directing the 2nd Respondent to pass order in the Appeal made by the Petitioner on 14.05.2019 against the order of the 3rd Respondent dated 19.03.2019, rejecting the claim of the Petitioner to remove the encroachments and restore West Street of Thirunagari, Sirkali Taluk, Nagapattinam District, encroachers and to evict the unauthorized occupants.

For Petitioner : Mr.P.Ganesan.

For Respondents : Mrs.R.Anitha, State Government
Counsel for R1 to R3.



O R D E R
(Order of the court was made by N.KIRUBAKARAN.J.,)

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The matter was heard through "Video Conference".

2.The Petitioner has come before this Court seeking direction to the Second Respondent to pass order in the Appeal made by the Petitioner on 14.05.2019 against the order of the Third Respondent / Tahsildar rejecting cancellation of pattas issued in respect of natham poromboke lands comprised in natham S.Nos.677/2, 3, 4, 5, 7, 8, 9, 11, 12 as there were irregularities in issuing pattas.

3.The Petitioner is the resident of Thirunagari Village, Sirkali Taluk. He is the owner of the property comprised in S.Nos.328/1A, 328/1B in West Street of Thirunagari Village, Sirkali Taluk, Nagapattinam District. From the east side of the Petitioner's land comprised in S.No.328/1A, the road side has been occupied by unauthorized persons and they put up temporary sheets. Therefore, people cannot make use of the road and unable to have access on the either side of the road. Hence, the Petitioner made representation on 02.08.2017 before the Third Respondent to remove the road side of West Street. However, on 30.09.2017, the Second Respondent requested the Third Respondent / Tahsildar to look into the matter.

4.Since there is no response, the Petitioner filed a Writ Petition in W.P.No.21235 of 2018 seeking Writ of Mandamus directing the official Respondents to remove the encroachments and restore the West Street of Thirunagari Village, Sirkali Taluk and to pass orders with regard to the alleged encroachments and obtained order on 20.08.2018 directing the Third Respondent to dispose of the representation of the Petitioner dated 02.08.2017 within a period of six weeks from the date of receipt of a copy of this order. Thereafter, the Third Respondent conducted enquiry and passed order on 19.03.2019 rejecting the Petitioner's claim based on the report of the land surveyor holding that there is no encroachment made by third parties as they are patta holders in respect of the land in S.Nos.677/2, 3, 4, 5, 7, 8, 9, 11, 12. Against the said order passed by the Third Respondent, the Petitioner filed an Appeal on 14.05.2019. As the Appeal has not been disposed and kept pending for more than three years, the Petitioner has come before this Court seeking Writ of Mandamus directing the Second Respondent to dispose of the Appeal.

5.Heard Mr.P.Ganesan, Learned Counsel for the Petitioner and Mrs.R.Anitha, Learned State Government Counsel for the



Respondents 1 to 3. Notice to Fourth to Sixth Respondents is not necessary for disposal of the case as this Court intends to direct the Second Respondent to dispose of the Appeal after issuing notice to the concerned authorities.

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6. It is evident from the records that against the order of the Third Respondent dated 19.03.2019, the Petitioner has preferred an Appeal on 14.05.2019 and for the past three years, the Appeal has been kept pending. Even in the earlier occasion, the Third Respondent did not pass any order on the Petitioner's representation dated 02.08.2017 and thereafter, the Petitioner filed a Writ Petition in W.P.No.21235 of 2018 and the same was disposed on 20.08.2018. Pursuant to the orders of this Court, the Third Respondent conducted enquiry and passed order on 19.03.2019. Even thereafter, the Appeal filed by the Petitioner has not been disposed by the Second Respondent and the same is kept pending for the past three years and there is no justification on the part of the Second Respondent to keep the matter pending.

7. It is seen that every time the Petitioner is compelled to approach this Court seeking direction to dispose of the representation or Appeal. Therefore, the Second Respondent is directed to dispose of the Appeal within a period of twelve weeks from the date of receipt of a copy of this order, after giving notices to the Petitioner as well as to the Private Respondents and after affording opportunity of hearing of all the parties. It is made clear that without notices to the private respondents and the Petitioner and without hearing them, no order should be passed. If any such exercise is undertaken by the Second Respondent, it amounts to violation of Court's order and the Private Respondents as well as the Petitioner are entitled to take contempt proceedings, if they are not served with notices and opportunity of hearing.

8. With the above directions, this Writ Petition is disposed of. No costs.

9. Post the matter after twelve weeks for reporting compliance.

Sd/-
Assistant Registrar (L.A)

//True copy//

Sub Assistant Registrar

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To

1. The District Collector,
Mayiladuthurai, District.

2. The Revenue Divisional Officer,
Mayiladuthurai - 609 001,
Mayiladuthurai District.

3. The Tahsildar,
Sirkali Taluk, Sirkali,
Mayiladuthurai District.

4. The Section Officer,
Writ Section,
High Court, Madras.
(For Reporting Compliance after 12 weeks)

+1cc to the Government Pleader, S.R.No.31164

W.P.No.13577 of 2021

AK(CO)
RLP(30/07/2021)