



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

W.P.No.22691 of 2021

Balasubramaniam

...Petitioner

Vs.

1.The District Collector,
Puducherry.

2.The Thasildhar,
Bahour,
Puducherry.

3.A.Nagapushpam

4.The Commissioner,
Nettapakkam Commune Panchayat.
(R4 is impleaded as suo moto by this Court
by order dated 27.10.2021.)

...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 and 2 to remove the encroachment made by the third respondent and others in Government Kuttai Promboke land in Survey No.58/6 situated at Nettapakkam Commune Panchayat, Puducherry to maintain the pathway in the southern side bund.

For petitioner : Mr.U.Karunakaran

For respondents : Ms.Mala
Govt. Pleader (Pondy) assisted by
Mr.A.Alexander
Govt. Advocate (for R1, R2 and R4)



ORDER

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(The Order of the Court was made by K.KALYANASUNDARAM,J)

The petitioner has come forward with this writ petition seeking for issuance of a Writ of Mandamus directing the respondents 1 and 2 to remove the encroachment made by the third respondent and others in Government Kuttai Promboke land in Survey No.58/6 situated at Nettapakkam Commune Panchayat, Puducherry to maintain the pathway in the southern side bund.

2.It is informed that the land in S.No.86/6 of Nettapakkam Commune Panchayat has been classified as Kuttai Poramboke and the Commissioner, Nettapakkam Commune Panchayat is the competent authority to take action on the representation of the petitioner. Hence, the Commissioner, Nettapakkam Commune Panchayat is suo motu impleaded as the fourth respondent in this writ petition.

3.Ms.N.Mala, learned Government Advocate (Pondi) takes notice for newly impleaded fourth respondent.

4.The petitioner would claim that he owns lands in Kathasthar Nos.124/1, 120 and 121, Re Survey No.58/2 and 58/5 situated at Nettapakkam village. The petitioner and his forefather have been enjoying the lands continuously for about 50 years without any interruption from others. The said property is bounded on the northern side by lake canal and in the eastern side Thangal Kuttai and Thangal Kuttai Poramboke is abutting the road. All along the petitioner has been using the southern side bund of the kuttai Poramboke for taking cart-track which leads to his land in S.Nos.58/5, 58/4 and 58/2. While so, the third respondent, who is the owner of the adjacent land comprised in RS.No.58/7A, encroached upon the southern side Government Thangal Kuttai Poramboke land preventing free ingress and egress to his property from the road and the public utility of the cart-track and pathway. Hence, he made representation dated 08.05.2021 to the official respondents for removal of the encroachment. But no action was taken. Hence, the present writ petition.

5.The learned counsel for the petitioner Mr.U.Karunakaran would state that the third respondent is the competent authority to conduct survey of the land in dispute and on that basis, the



Commissioner of Nettapakkam Commune Panchayat has to remove the encroachments.

6.The learned Government Counsel, on instructions, would state that based on the representation of the petitioner, the second respondent has already conducted preliminary survey of the land and found the encroachment in that area and after conducting thorough survey by the second respondent, a report will be sent to the Commissioner of Nettapakkam Commune Panchayat to take further action. It is also stated that the representation sent to the first respondent has been forwarded to the concerned Commissioner, but he is waiting a report from the second respondent, Tahsildar and after receiving the report, an appropriate action will be taken.

7.The learned Government Advocate would further state that the petitioner shall not claim any right over the poramboke land is concerned. The learned counsel for the petitioner would state that a cart-track is formed on the southern side of the bond, it is not only used by the petitioner, but also used by the general public for ingress and egress of that area. The said submission is recorded.

8.Considering the submissions of the learned counsels and also taking note of the prayer sought for in this writ petition, this Court without expressing any opinion on the merits of the matter, directs the second respondent to conduct survey in the presence of the necessary parties and send a report to the Commissioner, Nettapakkam Commune Panchayat, the fourth respondent herein, within a period of two months from the date of receipt of a copy of this order. During survey, if any encroachment is found by the second respondent, the fourth respondent shall take appropriate action to remove the encroachment in accordance with law, after providing sufficient opportunity to all the necessary parties within a period of three months there from.

9.With the above direction, this Writ Petition is disposed of. No costs.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR



skn
To

1.The District Collector,
Puducherry.

2.The Thasildhar,
Bahour,
Puducherry.

3.The Commissioner,
Nettapakkam Commune Panchayat.

+1cc to M/s.U.Karunakaran, Advocate Sr.55941

W.P.No.22691 of 2021

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