



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No. 15671 of 2014

T.Krishnan

...Petitioner

Vs

1. The Collector,
Cuddalore District,
Cuddalore.
2. The Tahsildar,
Kurinjipadi Taluk.
3. The Superintendent of Police,
Cuddalore District,
Cuddalore.
4. Settu
5. Chandran
6. Ravi

...Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Mandamus, directing the respondents 1 to 3 to implement the provisions of The Prevention of Atrocities against Scheduled Castes and Scheduled Tribes Act consequently to restore the demolished toilet and bathroom of the petitioners house situate in S.No.42/2 in Adoorkuppam Village, Kurinjipadi Taluk, Cuddalore District, forthwith and also consequently directing respondents 1 to 6 to pay petitioner Rs.5/- lakhs as compensation with interest.

For Petitioner : Mr.D.Baskar

For Respondents : Mr.C.Jayaprakash
Government Advocate
[For R1 to R3]

No Appearance [For R4]

R5 and R6 Dismissed vide Court
Order dated 07/03/2019



O R D E R

The relief sought for in the present writ petition is to direct the respondents 1 to 3 to implement the provisions of The Prevention of Atrocities against Scheduled Castes and Scheduled Tribes Act consequently to restore the demolished toilet and bathroom of the petitioner's house situate in S.No.42/2 in Adoorkuppam Village, Kurinjipadi Taluk, Cuddalore District, forthwith and also to direct the respondents 1 to 6 to pay petitioner Rs.5,00,000 (Rupees Five Lakhs) to the petitioner as compensation with interest.

2. The learned counsel for the petitioner strenuously contended that, the petitioner is the owner of the subject property in which he had constructed a Toilet and Bathroom and the said toilet and bathroom was demolished by the respondents, without even issuing a notice to the petitioner. Thus, they have violated the procedures contemplated for eviction and therefore, the authorities are liable to pay compensation to the petitioner.

3. The learned counsel for the petitioner reiterated that, the toilet and bathroom constructed by the petitioner was in usage for long time and all of a sudden, the respondents have demolished the same, which caused greater agony. Earlier, the writ petitioner filed WP.No.10976 of 2013 and this Court passed an order on 22.04.2013, directing the authorities to consider the representation by conducting an enquiry.

4. Pursuant to the orders, the representation was considered and it was informed to the petitioner that the subject property is classified as "Theru Poromboku" and belongs to the Government. Therefore, the petitioner has no right to claim ownership or title in respect of the said portion of the property which was taken possession by the respondents.

5. The learned counsel for the petitioner made a submission that the petitioner is entitled for compensation as the demolition was made without even providing an opportunity to the writ petitioner.

6. The respondents filed a counter affidavit stating that, the petitioner Mr.T.Krishanan had constructed toilet and bathroom in an extent of 00063 Sq.m behind his house in R.S.No.10/7, which is classified as "Theru Poromboku". Because of this encroachment by way of toilet and bathroom, the road was reduced to 0.05 meter from 2.8 meter. The people residing R.S.No.10/8 and 10/9 suffered a lot to reach the main road through this road as the road was narrowed due to the encroachment by the petitioners.

7. While so, the dead body of one Vishwanathan, S/o. Subarayan, who expired, could not be taken to the grave yard through this road and law and order situation arose. The



affected Adi dravidar people complained to the Tahsildar, Kurinjipadi and the Tahsildar visited the field and conducted peace talk. The petitioner at that time, requested the Tahsildar, not to evict the structure on that day and promised that he would evict the structure immediately. Hence, the Tahsildar arranged for the movement of the body through a private person's vacant land. As promised by the petitioner, he did not evict the structure. He was given so many chances. As he had not chosen to evict the encroachments, the encroachment was evicted in the presence of the Tahsildar, Kurinipadi and the street was handed over to the public for common usage.

8. The petitioner is residing in R.S. No.10/6 as classified as "Natham" and constructed the toilet and bathroom in RS No.10/7, which is classified as "Theru". The street was used by the public to reach the main road and because of this encroachment, the dwellers of the nearby area suffered a lot and occasions such as moving of dead body etc., could not be carried out easily. Due to the encroachment and due to the inconvenience caused, it ended in law and order problem. Though, chances were given to the petitioner so many times, he did not chose to evict the structure and proved to be a non law abiding citizen. Hence, it was inevitable to evict the encroachment by the second respondent to ease the public street and avert law and order problem.

9. The Superintendent of Police also reiterated the same contents, stated by the Tahsildar in his counter, the Superintendent of Police further elaborated that, there is no case for issuance of action under the Scheduled Castes and Scheduled Tribes Act and there was no specific complaint registered by the petitioner in this regard.

10. This being the facts and circumstances established, this Court of the opinion that, the petitioner has not established any right in respect of the portion of the land, in which, he constructed toilet and bathroom. This apart, an opportunity was provided to the petitioner by the Tahsildar. On the ground that the petitioner himself promised before the people of that locality that he will remove the objected portion of the toilet and bathroom constructed in "Theru Poromboku" land.

11. The petitioner himself made a promise that he will take necessary steps to remove the encroached portion of the construction and several opportunities were given by the Tahsildar to the petitioner in order to avert law and order problem in that locality. The very contention is that, no opportunity was given to the petitioner deserves no merit consideration.

12. Mere claiming of ownership cannot be considered by this



Court. Any such Civil right regarding immovable property is to be established only through Competent Civil Court of Law. Such an adjudication of civil rights cannot be entertained in a writ proceedings under Article 226 of the Constitution of India. However, in the present case, the Tahsildar, Kurinjipadi, elaborated by stating that, the subject property is classified as "Theru Poromboku" and the petitioner was an encroacher and because of the encroachment, even the dead body could not be carried easily through that street to the main road. This being the seriousness of the issue involved in that locality and Law and Order problem arouse due to such encroachment.

13. There is no infirmity or infringement of right of the petitioner in respect of the actions initiated and further opportunities were also given to the petitioner to remove the constructions in the encroached area.

14. Thus, the petitioner is not entitled for any relief as such sought for in the present writ petition. With these observations, the writ petition stands dismissed. No costs.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

nti/jeni

To

1. The Collector,
Cuddalore District,
Cuddalore.
2. The Tahsildar,
Kurinjipadi Taluk.
3. The Superintendent of Police,
Cuddalore District,
Cuddalore.

W.P.No. 15671 of 2014

SSV(CO)
RGA(03/12/2021)