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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.09.2021

CORAM:

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

W.P.NO.21009 OF 2019

C.Gabriel

...Petitioner

Vs.

- 1.The District Collector,
Kallakurichi,
Kallakurichi District - 606 202.
- 2.The Revenue Divisional Officer,
Kallakurichi,
Kallakurichi District - 606 202.
- 3.The Tahsildar, Sankarapuram Taluk,
Kallakurichi,
Kallakurichi District - 606 202.
- 4.The Block Development Officer,
Sankarapuram Block and Taluk,
Kallakurichi District - 606 202.
- 5.The Sub-Inspector of Police,
Moongilthuraipattu Police Station,
Sankarapuram Taluk,
Kallakurichi District - 606 202.
- 6.B.Mariyaselvam
- 7.B.Arokiasamy
- 8.B.Sagayaraj
- 9.A.Jothi
- 10.B.Rajam

(Cause title amended vide order dated 21.02.2020 made in
WMP.No.4877 of 2020 in W.P.No.21009 of 2019)

...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 to 4 to remove the illegal encroachments made by the respondents 6 to 10 on Government land classified as Theervai Eradha Tharisu (Non-Taxable Barren Land) and Kallankuthu (Rocky area), comprising in Survey No.127/3, measuring 63.5Ars (1.57 Acre), situated at Mangalam Village, Irudayampattu Post, Sankarapuram Taluk, Kallakurichi District.

(Prayer amended vide order dated 21.02.2020 made in WMP.No.4833 of 2020 in W.P.No.21009 of 2019)

For petitioner : Mr.J.Agni Selvaraju
For respondents : Ms.Akila Rajendran
Govt. Advocate for R1 to R5
No Appearance for R6 to R10

ORDER

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

This Writ Petition is filed seeking for the issuance of a Writ of Mandamus directing the respondents 1 to 4 to remove the illegal encroachments made by the respondents 6 to 10, comprising in Survey No.127/3, situated at Mangalam Village, Irudayampattu Post, Sankarapuram Taluk, Villupuram District.

2. The learned counsel appearing for the petitioner would state that the petitioner owns an agricultural land in S.Nos.130/2A6 and 130/2B. The petitioner and his neighbours are using the pathway which was formed in the Government land, however, in view of the illegal encroachment made by the private respondents in the general public Road, the public are put to hardship. Hence, the petitioner made a representation to the respondent, but no action was taken to remove the encroachment.

3. The learned counsel would further submit that the 3rd respondent is the competent authority to consider the grievance of the petitioner and it would suffice, if a suitable direction is issued to the third respondent to pass orders on the representation of the petitioner.

4. The learned Government Advocate, by referring to the counter filed by the 4th respondent, would state that the private respondents have constructed houses to an extent of 3 cents each and they failed to send reply to the notice issued under Section 7 of the Land Encroachment Act. It is further stated that on inspection, authorities found that they are



eligible for issuance of patta and the proposal is still pending. Anyhow, the 4th respondent is ready to appropriate action on the representation of the petitioner.

5. In reply, the learned counsel for the petitioner would state that the private respondents have encroached the land in S.No.127/3, which is an extent of 1.57 acre and the encroachment causes hindrance to the petitioner as well as to neighbours to reach their property.

6. Taking note of the prayer sought for in the writ petition and considering the submissions made by the learned counsel appearing on either side, this Court, without expressing any opinion on the merits of the matter, directs the third respondent to take appropriate action on the representation of the petitioner dated 03.06.2019 and pass orders in accordance with law, after affording opportunity of personal hearing to all the necessary parties, within a period of three months from the date of receipt of a copy of this order.

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

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

- 1.The District Collector,
Kallakurichi District - 606 202.
- 2.The Revenue Divisional Officer,
Kallakurichi,
Kallakurichi District - 606 202.
- 3.The Tahsildar,
Sankarapuram Taluk,
Kallakurichi District - 606 202.
- 4.The Block Development Officer,
Sankarapuram Block and Taluk,
Kallakurichi District - 606 202.



5.The Sub-Inspector of Police,
Moongilthuraipattu Police Station,
Sankarapuram Taluk,
Kallakurichi District - 606 202.

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+1cc to Mr.V.Jayaprakash Narayanan, Advocate, S.R.No.50703

+1cc to Mr.J.Agni Selvaraju, Advocate, S.R.No.50932

+1cc to the Government Pleader, S.R.No.51261

W.P.No.21009 of 2019

GSM(CO)
RVM(22/11/2021)