

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.10.2021

:CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

AND

THE HONOURABLE MR.JUSTICE A.A. NAKKIRAN

W.P.No.21645 of 2021

Fathima

Petitioner

Vs.

1.The District Collector
Villupuram District
Villupuram.

2. The Tahsildar
Villupuram Taluk
Villupuram District.

3. Kannikaimary

4. Alexander

5. Arokiamary

6. Jebamalai

7. The Chairman,

Tamil Nadu Generation and Distribution Corporation Ltd.,
144 Anna Salai, Chennai 600 002

(R7 suo motu impleaded as per order of this Court
dated 06.10.2021)

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Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the First and Second Respondents to remove the encroachments in common pathway in Survey No. 167/4 of Kalpattu Village, Villupuram Taluk and District.

For Petitioners : Mr.C. Munusamy

For Respondents : Ms. Akila Rajendran for R1 & R2
Government Advocate.

ORDER

(Order of this Court was made by S.VAIDYANATHAN, J)

The Writ Petition has been filed directing the First and Second Respondents to remove the encroachments in common pathway in Survey No. 167/4 of Kalpattu Village, Villupuram Taluk and District.

2. When the matter is taken up for hearing, the learned Government Advocate, who accepts notice on behalf of the Respondents 1 and 2 produced a communication of the Tahsildar dated 05.10.2021, addressed to him, stating that the pathway in Survey No.167/4 of Kalpattu Village is a 'Sandu Poromboke' land and the Government wants three months time to take decision and remove encroachment.

3. Taking note of the submissions made by the learned Government Advocate

appearing for the Respondents 1 and 2, the Respondents are directed to take decision on the encroachments alleged to have been made in Survey No.167/4 of Kalpattu Village, Villupuram Taluk and District, on or before 31.01.2022, after affording opportunity of hearing to the Respondents 3 to 6. This Court makes it clear that if any encroachment is found to be made by the Petitioner, the electricity connection with respect to the Respondents 3 to 6 shall be disconnected in the light of the Judgment of the Division Bench in **"P.Selvarajan Vs. The Commissioner of Municipal Administration, Chennai and others"** (W.P.No. 21639 of 2017) decided on 13.02.2018, following the order of the Supreme Court dated 05.01.2018, passed in **Special Leave to Appeal (C) No. 33863 of 2017**, wherein the Apex Court observed as follows:

Thereafter, once again the matter was taken up to the Supreme Court by the fourth respondent, and the Supreme Court, by order dated 05.01.2018 in Petition for Special Leave to Appeal (C) No.33863 of 2017, has dismissed the Special Leave Petition, by observing as follows:

"Heard learned counsel for the petitioner and perused the impugned order dated 07.11.2017 passed in WMP.No.30495/2017 passed by the Madras High Court.

We are not inclined to interfere in the impugned order and accordingly, the Special Leave Petition is dismissed.

However, we direct the authority concerned before whom the application for regularisation under the DTCP Building Regularisation Scheme 2017 is pending to decide the matter in accordance with law within two months.

Pending application stands disposed of."

4. For carrying out the aforesaid exercise, this Court suo motu impleads '*The Chairman, Tamil Nadu Generation and Distribution Corporation Ltd., 144 Anna Salai, Chennai 600 002*' as 7th Respondent in the Writ Petition.

5. The 7th Respondent is directed to intimate the concerned authorities of the TANGEDCO, to disconnect the electricity connection of the Respondents 3 to 6, if any encroachment is found to be made.

6. With the above observations and directions, this Writ Petition is disposed of. If the Respondents had got any grievance, by the decision taken by the officials it is open to them to approach the Appellate Authority or Revisional Authority, making Writ Petitioner as party to the proceedings. In case of adverse decision, the Electricity connection shall stand disconnected during the pending of Appeal/Revision. If any Appeal/Revision is filed, it shall be decided by the Authorities within 30 days after affording opportunity to the parties concerned. This coercive act of disconnection of Electricity will pave way for the encroachers not to dodge the proceedings. No costs.

[S.V.N,J.,] [A.A.N,J.,]
06.10.2021

Index: Yes / No
Speaking order /Non speaking order
arr/shk

To

1.The District Collector
Villupuram District
Villupuram.

2. The Tahsildar
Villupuram Taluk
Villupuram District.

3.The Chairman,
Tamil Nadu Generation and Distribution Corporation Ltd.,
144 Anna Salai, Chennai 600 002



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**S.VAIDYANATHAN,J.,
and
A.A.NAKKIRAN,J.,**

arr/shk



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