



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.04.2021

CORAM :

WEB COPY

**THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MRS.JUSTICE S.ANANTHI**

W.P. (MD) No.2543 of 2020

Mr.S.Manikannan

.. Petitioner

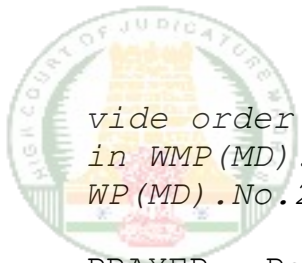
Vs

1. The District Collector,
Dindigul District, Dindigul.
2. The Tahsildar,
East Taluk, Dindigul District,
Dindigul.
3. Mr.P.Govindaraj
4. T.Subbaiah
5. V.Thasappan
6. B.Perumal
7. R.Pasupathi
8. P.Marimuthu
9. A.Prabakar
10. P.Jayaraman
11. T.Boopathi
12. S.Periyasamy
13. R.Govindaraj
14. P.Vengidusamy

15. T.Krishnasamy

... Respondents

[Respondents 4 to 15 impleaded



vide order dated 21.04.2021, passed
in WMP(MD).No.13372 of 2020 in
WP(MD).No.2543 of 2020]

PRAYER: Petition under Article 226 of the Constitution of India seeking issuance of a writ of Mandamus, directing the respondents 1 and 2 herein to remove the encroachments made in the Government Poramboke Lands to an extent of 9 Acres comprised in Survey Nos.231 and 263 of Balakrishnapuram Village, Dindigul East Taluk, Dindigul District by considering the Petitioner's Representations dated 20.01.2020 and 27.01.2020 and for other reliefs.

For Petitioner : Mr.J.Lawrance

For respondents : Mr.K.Mu.Muthu,
Additional Government Pleader,
for R1 and R2
Mr.H.Lakshmi Shankar for R3
Mr.Mp.S.Senthil for R4

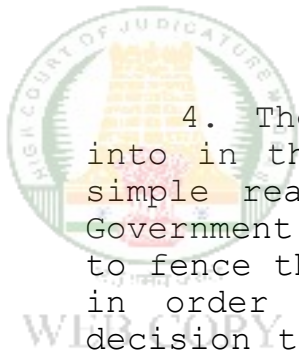
ORDER

[Order of the Court was made by **T.S.SIVAGNANAM, J.**]

The writ petitioner seeks for a direction upon the respondents 1 and 2, to remove the encroachments made in the Government Poramboke Lands to an extent of 9 Acres, comprised in Survey Nos.231 and 263 of Balakrishnapuram Village, Dindigul East Taluk, Dindigul District, by considering the petitioner's representations, dated 20.01.2020 and 27.01.2020.

2. It is not disputed by the petitioner or the respondents 3 and 4 and admitted by the Tahsildar, East Taluk, Dindigul District, that the land in question is the Government Poramboke land. There are allegations and counter allegations between the petitioner and the respondents 3 and 4. The respondents 3 and 4 are together in the sense that they are all belonging to a particular community residing in a nearby village.

3. The petitioner would state that the respondents 3 and 4 and other people of the same community have no right to put up a fence around a Government property. On the other hand, the respondents 3 and 4 would allege that the petitioner is a very powerful and politically influential person and he is a promoter of housing layout and his intention is to establish a pathway across the Government Poramboke land, so as to reach the property, which is being developed by him as a housing layout.



4. These allegations and counter allegations cannot be gone into in this writ petition nor required to be gone into, for the simple reason that it is an undisputed fact that the land is a Government Poramboke land. Therefore, no person has any vested right to fence the property. If at all, the Government is of the view that in order to preserve the property, the Government can take a decision to fence or erect a compound wall. No private individual, however high may be, is entitled to fence the property. We make it clear that we have not expressed any opinion on the so-called intention of the petitioner to form a road in the Government Poramboke land.

5. Thus, in the light of the fact that the land in question is, admittedly, Government Poramboke land, the respondents 1 and 2 are directed to issue notice to the respondents 3 and 4 to remove the fence within four days from the date of receipt of a copy of this order, failing which, the respondents 1 and 2 shall remove the said fence by issuing appropriate orders departmentally and the entire cost shall be recovered from the respondents 3 and 4.

6. The learned Counsel appearing for the third respondent submitted that the petitioner has also fenced a portion of the Government property.

7. Mr.J.Lawrance, learned Counsel appearing for the writ petitioner submitted that the petitioner had wrongly fenced it and he has removed the fence. This submission is placed on record.

8. Furthermore, we find that two suits have been filed by the petitioner and his wife in O.S.Nos.241 and 243 of 2018, on the file of the Principal District Munsif Court, Dindigul. Unfortunately, the defendants- District Collector, and the Tahsildar, East Taluk, Dindigul District, did not appear in the suit and an ex-parte decree has been obtained. It is not clear that as to why the District Collector and Tahsildar did not appear in the suit and the District Collector, Dindigul District, is directed to conduct an enquiry into the matter as to whether there is any collusion with the parties and the lower level officials.

9. With the above observations, the writ petition stands disposed of. No costs.

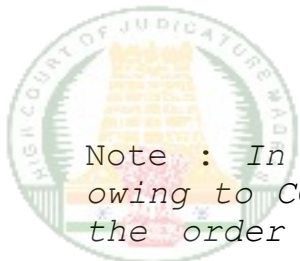
Sd/-

Assistant Registrar (CSI)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

pkn

To:

1. The District Collector,
Dindigul District, Dindigul.
2. The Tahsildar,
East Taluk, Dindigul District,
Dindigul.

+1 CC to M/s.H.LAKSHMI SHANKAR, Advocate (SR-17038[F] dated 22/04/2021)

+1 CC to M/s.J.LAWRANCE, Advocate (SR-17105[F] dated 22/04/2021)

+1 CC to M/s.M.P.SENTHIL, Advocate (SR-17210[F] dated 23/04/2021)

W.P.(MD) No.2543 of 2020

21.04.2021

GS (9.06.2021) 4P 6C