



WEB COPY

W.P(MD)No.18209 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

AND

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

W.P(MD)No.18209 of 2021

and

W.M.P(MD)No.15048 of 2021

K.Seemon

... Petitioner

Vs.

1.The District Collector,
Tenkasi District,
Tenkasi.

2.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Tenkasi,
Tenkasi District.

3.The Tahsildhar,
Alangulam Taluk,
Tenkasi District.

4.G.Josephine

... 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 remove the encroachments made by the fourth respondent in Survey No.495/30 or any other public lands in Andipatti Village, Alangulam Taluk, Tenkasi District by following the due process of law and consequently directing the third respondent to restore the said lands and allow it for public use as it stood earlier within a time frame stipulated by this Court.

For Petitioner : Mr.T.Lajapathi Roy
For RR 1 to 3 : Mr.P.Thilak Kumar
Government Pleader

ORDER

(Order of the Court was made by **M.DURAI SWAMY, J.**)

The petitioner has filed the above Writ Petition as a Public Interest Litigation to issue a Writ of Mandamus, directing the respondents 1 to 3 to remove the encroachments made by the fourth



respondent in Survey No.495/30 or any other public lands in Andipatti Village, Alangulam Taluk, Tenkasi District by following the due process of law and consequently directing the third respondent to restore the said lands and allow it for public use as it stood earlier.

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2.It is pertinent to note that the fourth respondent filed the Contempt Petition in Cont.P(MD)No.1276 of 2021 in W.P(MD)No.13874 of 2021. By order, dated 10.08.2021 in W.P(MD)No.13874 of 2021, which was filed by the fourth respondent, this Court directed the Tahsildar, Alangulam to give an opportunity of hearing to the petitioner therein and pass appropriate orders under Section 6 of the Tamil Nadu Land Encroachment Act, 1905, within a period of six weeks. Further, the Tahsildar was directed not to disturb the possession of the fourth respondent herein till such time. But violating the order passed in the Writ Petition, the respondents 2 and 3 therein took possession of the land on 28.08.2021, even without passing an order under Section 6 of the Act.

3.In these circumstances, the fourth respondent filed the Contempt Petition in Cont.P(MD)No.1276 of 2021. Since the respondents 2 and 3 in the Writ Petition had violated the order passed in the Writ Petition, they were directed to restore the possession of the land in question to the fourth respondent and also to put up the zinc sheet shed, which was put up by her and also to return the movable articles to the fourth respondent herein. Accordingly, the respondents 2 and 3 in the Writ Petition restored the possession of the property to the fourth respondent and also put up the zinc sheet shed and handed over all the movables to her on 01.10.2021.

4.Recording the submissions made by the petitioner and the learned Government Pleader appearing for the respondents in the Contempt Petition, we have closed the Contempt Petition on 05.10.2021. However, we made it clear that the order passed in the Contempt Petition was not stand in the way of the Tahsildar passing an order under Section 6 of the Act and evicting the fourth respondent from the encroached land in accordance with law. Since we have already made it clear that the Tahsildar is at liberty to pass an order under Section 6 of the Act and take possession of the encroached land, we do not find any further direction need be issued in the Writ Petition.

5.In such view of the matter, the Writ Petition stands closed.

6.Further, Mr.T.Lajapathi Roy, learned counsel appearing for the petitioner as well as Mr.P.Thilak Kumar, learned Government Pleader appearing for the respondents 1 to 3 in the present Writ Petition submitted that the survey number of the land in question is Survey No.495/30 and not Survey No.490/30, which is incorrectly mentioned in the order passed in W.P(MD)No.13874 of 2021, dated



10.08.2021. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS III)

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/ /2021

Sub Assistant Registrar(CS)

indu/ps

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.

To

- 1.The District Collector,
Tenkasi District,
Tenkasi.
- 2.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Tenkasi,
Tenkasi District.
- 3.The Tahsildhar,
Alangulam Taluk,
Tankasi District.

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-31456[F] dated 07/10/2021)

+1 CC to M/s.SPL.GP (SR-31506[F] dated 07/10/2021)

W.P (MD) No.18209 of 2021
06.10.2021

NSN (CO) /RS (21.10.2021) 3P 6C