



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:21.04.2021

CORAM :

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

W.P.(MD) Nos.16653 and 25137 of 2018
and
WMP (MD) .No.14738 of 2018

W.P (MD) .No.16653 of 2018

B.Suresh

.. Petitioner

Vs

1. The District Collector,
Virudhunagar District, Virudhunagar.
2. The Revenue Divisional Officer,
Sivakasi, Virudhunagar District.
3. The Tahsildar,
Sivakasi Taluk,
Sivakasi, Virudhunagar District.
4. The Block Development Officer,
Sivakasi Panchayat Union,
Sivakasi, Virudhunagar District.
5. The Executive Engineer,
Public Works Department,
Sivakasi, Virudhunagar District.

... Respondents

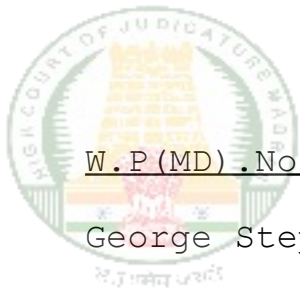
PRAYER: Petition under Article 226 of the Constitution of India seeking issuance of a writ of Certiorari, to call for the records culminated with the show cause dated 11.07.2018 in Na.Ka.B1/134/2018 issued by the Revenue Inspector Thiruthangal instead of third respondent herein and quash the same as illegal.

For Petitioner

: Mr.N.Dilip Kumar

For respondents
No.1 to 3

: Mr.K.P.Krishnadoss,
Special Government Pleader



W.P(MD).No.25137 of 2018

George Stephen Jeyarajan

.. Petitioner

WEB COPY

Vs

1. The District Collector,
Virudhunagar District, Virudhunagar.

2. The Tahsildar,
Sivakasi Taluk,
Sivakasi, Virudhunagar District.

3. The Block Development Officer,
Sivakasi Panchayat Union,
Sivakasi, Virudhunagar District.

4. Mr.Suresh ... Respondents

Prayer in WP(MD). 25137 of 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 2 and 3 to remove the encroachment in Survey No.844 at Grace Colony, Sengamala Natchiyarpuram Village, Sivakasi Taluk, Virudhunagar District by considering the petitioner's representation dated 20.07.2018.

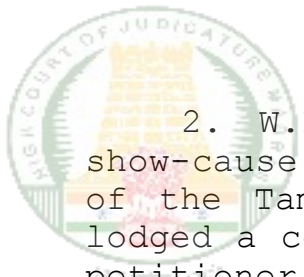
For Petitioner : Mr.M.Solaisamy

For respondents : Mr.K.P.Krishnadoss,
Special Government Pleader
for R1 to R3
Mr.N.Dilip Kumar for R4

COMMON ORDER

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

Since the subject matter in both the writ petitions pertains to the same property, the writ petitions were heard together and disposed of by this common order.

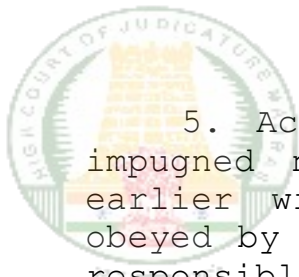


2. W.P(MD).No.16653 of 2018, has been filed challenging a show-cause notice issued by the third respondent under Section 7 of the Tamil Nadu Land Encroachment Act, 1905. The person, who lodged a complaint and submitted representations alleging that the petitioner - B.Suresh, has encroached into an Odai has filed a separate writ petition in W.P(MD).No.25137 of 2018, for a direction to the Tahsildar, Sivakasi Taluk and Block Development Officer, Sivakasi Panchayat Union, to remove the encroachments.

3. The present issue had a past history and the parties are before this Court from the year 2017-2018. The last of the orders passed by this Court is in the writ petition filed by the petitioner - B.Suresh in W.P(MD).No.6517 of 2018. The said writ petition was allowed, by order, dated 26.03.2018. However, certain specific directions were issued to the Tahsildar, Sivakasi Taluk, as to how he has to proceed further in the matter. For better appreciation, the paragraph No.8 of the said order extracted hereunder:

"8.Thus, for all the above reasons, we find that the impugned notice is flawed. In the result, the writ petition is allowed and the impugned notice is quashed and the third respondent is directed to depute his officers to measure the entire extent of property, so as to find out as to whether there is any encroachment in the water body as alleged by the said George Stephen Jeyarajan. Before measuring the properties, notice shall be issued to the petitioner as well as Mr.George Stephen Jeyarajan and the measurement would not be restricted to the area in question, but the entire length should be measured and after measurement is taken in the presence of the individuals, notice should be issued in accordance with the Tamil Nadu Land Encroachment Act and action shall be proceeded after affording adequate opportunity to the petitioner/encroachers in accordance with law."

4. We are of the view that there can be no confusion in the minds of the Tahsildar with regard to the direction issued in the above order. If at all there was any doubt arising in the minds of the Tahsildar, the same shall very well be clarified by filing appropriate application in the writ petition. However, the Tahsildar simply brushed aside the direction issued and issued the impugned Notification dated 11.07.2018. We can also draw adverse inference against the Officer in issuing such a notice, probably with a view to delay the proceedings. The net result is that the impugned notice is required to be set aside.



5. Accordingly, W.P(MD).No16653 of 2018 is allowed and the impugned notice is set aside and the direction issued in the earlier writ petition as referred to above shall be strictly obeyed by the concerned Officer and the third respondent shall be responsible for proper implementation of the order and direction. This direction shall be implemented within a period of four weeks from the date of receipt of a copy of this order. No costs.

6. In the light of the order passed in W.P(MD).No.16653 of 2018, no separate orders are required in W.P(MD).No.25137 of 2018. Accordingly, W.P(MD).No.25137 of 2018 stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CRL SIDE)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

pkn

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,
Virudhunagar District, Virudhunagar.
2. The Revenue Divisional Officer,
Sivakasi, Virudhunagar District.
3. The Tahsildar,
Sivakasi Taluk,
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4. The Block Development Officer,
Sivakasi Panchayat Union,
Sivakasi, Virudhunagar District.

5. The Executive Engineer,
Public Works Department,
Sivakasi, Virudhunagar District.

+2 CC to M/s.N.DILIPKUMAR, Advocate (SR-17089,17095[F] dated
22/04/2021)

+1 CC to M/s.SPL GP (SR-17137,17138[F] dated 22/04/2021)

W.P.(MD) Nos.16653 and 25137 of 2018
21.04.2021

VB(03/06/2021) 5P / 9C