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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2022

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

and

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.P. No.5184 of 2022

and

W.M.P. Nos.5292 and 5293 of 2022

P.Bagyalakshmi

... Petitioner

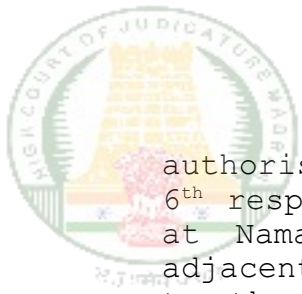
vs

1. The District Collector,
Tiruvannamalai District,
Tiruvannamalai.
2. The Tahsildhar,
Vembakkam Taluk,
Tiruvannamalai District.
3. The Village Administrative,
Namandi Village,
Vembakkam Taluk,
Tiruvannamalai District.
4. The Junior Engineer,
TANGEDCO,
Namandi Village,
Abdullahpuram,
Vembakkam Taluk,
Thiruvannamalai District.
5. The Block Development Officer,
Namandi Village,
Vembakkam Taluk,
Thiruvannamalai District.

6.Selvam

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a writ of Mandamus directing the respondents 1 to 3 and 5 to consider the proceedings of the District Collector in O.MU (A1) 9811/2021 dated 31.05.2021 and remove the un-



authorised illegal construction of house and shed put up by the 6th respondent in Government Odai Poromboke land in S.F. No.67/1 at Namadi Village, Vembakkam Taluk, Thiruvannamalai District adjacent to the road to his house and resume the land belonging to the Government an extent of more than 2.5 acres and also remove the motor and pump set installed in the Government Kuttai/Pond situated at Namandi Siddhathur Road at Namandi Village, Vembakkam Taluk, Thiruvannamalai District.

For Petitioner : Mrs.T.Kokilavani

For Respondents : Mr.A.Selvendran,
Special Government Pleader
for R1 and R2

Mr.C.Jaivenkatesh,
Standing Counsel for R4

Mr.K.M.D.Muhilan,
Government Advocate for R5

ORDER

[Order of this Court was delivered by T.RAJA, J.]

The petitioner has come to this Court for issuance of a writ of Mandamus seeking a direction to respondents 1 to 3 and 5 to consider the proceedings dated 31.05.2021 issued by the District Collector, the first respondent herein in O.MU (A1) 9811/2021, remove the un-authorized and illegal construction of house and shed, put up by the 6th respondent in Government Odai Poromboke land in S.F. No.67/1, situated at Namadi Village, Vembakkam Taluk, Thiruvannamalai District, which is adjacent to his house, resume the land belonging to the Government to an extent of more than 2.5 acres and also remove the motor and pump set, installed in the Government Kuttai/Pond, situated at Namandi Siddhathur Road at Namandi Village, Vembakkam Taluk, Thiruvannamalai District.

2.Learned counsel appearing for the petitioner submitted that the petitioner is the absolute owner of the property, covered in S.F. No.67/2, situated at Namandi Village, Vembakkam Taluk, Tiruvannamalai District and one Selvam, the sixth respondent herein, being the owner of the property, covered in S.F.Nos.61 and 67/1, which is classified as Oodai Poromboke water body, has encroached an extent of 4000 sq.ft. of land and



put up a pucca shed near the common Kuttai Eri. Moreover, when the said common kuttai is used by the villagers and other neighbouring land owners for watering their cattles and agricultural purposes as water body resource, the sixth respondent has been extracting water from the said poromboke Kuttai/water body and using the same for house construction, household and his agricultural land, which are exclusively meant for the usage of public at large. Since the 'A' register maintained by the Revenue Department shows S.F.No.67/1 as a Odai Poromboke, the sixth respondent has no right or power to use exclusively the common water body. In this regard, the petitioner lodged a complaint to the District Collector, the first respondent herein on 25.01.2020 to remove the unauthorised construction and the first respondent has also directed the Regional Development Officer, Venbakkam to take necessary steps to remove the encroachment by his Proceedings dated 18.10.2021. As there is no response, the petitioner is before this Court for the above direction.

3.Mr.A.Selvendran, learned Special Government Pleader appearing for respondents 1 and 2, placing on record a letter dated 08.03.2022 addressed to him by the Tahsildar, Thiruvannamalai District, submitted that as canvassed by the counsel for the petitioner, S.F.No.67/1 is the Odai Poromboke. Moreover, not only the sixth respondent, the petitioner and some others are also encroachers. Therefore, if it is found to be illegal encroachment, action will be taken to remove the encroachment made by the encroachers.

4.At this stage, learned Government Advocate appearing for the Block Development Officer/fifth respondent submitted that on earlier occasion, the fifth respondent has issued Form I notice calling upon the petitioner and the sixth respondent to show cause as to why action should not be taken for removal of encroachment made by them. Learned counsel for the fifth respondent sought time to verify as to whether Form III notice has been issued and if so, the same has been issued both to the petitioner and the sixth respondent.

5.Since the Form I notice, which is an internal communication between the Public Works Department and the Tahsildar, has been issued to both the petitioner and the sixth respondent, we hereby direct the Block Development Officer, the fifth respondent to issue Form III notice to the petitioner, the sixth respondent and other necessary parties, within a period of two weeks from the date of receipt of a copy of this order. After receiving the Form III notice, the petitioner, the sixth



respondent and other necessary parties are directed to submit their explanation within a period of two weeks thereafter. On enquiry, if it is found that there is an encroachment, the respondents concerned shall proceed further in the manner known to law. With the above direction and observation, this writ petition stands disposed of. No costs. Consequently, W.M.P. Nos.5292 and 5293 of 2022 stand closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

vga
To

1. The District Collector,
Tiruvannamalai District,
Tiruvannamalai.
2. The Tahsildhar,
Vembakkam Taluk,
Tiruvannamalai District.
3. The Village Administrative,
Namandi Village,
Vembakkam Taluk,
Tiruvannamalai District.
4. The Junior Engineer,
TANGEDCO, Namandi Village,
Abdullahpuram, Vembakkam Taluk,
Thiruvannamalai District.
5. The Block Development Officer,
Namandi Village, Vembakkam Taluk,
Thiruvannamalai District.

+1cc to M/s.S.poornima, Advocate, S.R.No.15679
+1cc to the Government Pleader, S.R.No.16286

W.P. No.5184 of 2022
and
W.M.P. Nos.5292 and 5293 of 2022

SPD[co]
NSK 24/03/2022