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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2022

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THE HONOURABLE MR.JUSTICE T.RAJA

and

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.P.No.5002 OF 2022

P.K.Palanisamy

...Petitioner

-vs-

- 1.The District Collector,
Erode District, Erode.
- 2.The District Revenue Officer,
Erode District, Erode.
- 3.Revenue Divisional Officer,
Erode District, Erode.
- 4.The Thasildar,
Modakkuruchi Taluk,
Erode District.
- 5.The Revenue Thasildar,
Modakkuruchi Taluk,
Erode District.
- 6.The Block Development Officer,
Modakkuruchi Taluk, Erode-2.
- 7.The President,
Kagam Village Panchayat,
Vilakethi Post, Sivagiri Vazhi,
Erode District.
- 8.Manjula Devi
- 9.Parimala Devi
- 10.Loganathan

...Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking for issuance of a Writ of Mandamus, directing the respondents 1 to 7 to remove the encroachment made in the 'Nilaviyal Vandipathai' in Survey Nos.93/1 and 66/1 in accordance with G.O. (Ms) No.540 of 2014 and to bring the land



to its original form and clear the encroachments by considering the representation of the petitioner dated 14.07.2021.

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For Petitioner : M/s.Shase
for Mr.M.Guruprasad

For Respondents : Mr.A.Selvendran,
Spl. Govt. Pleader for R1 to R5

Mr.Ravi Kumar,
Spl.G.P. for R6 and R7

ORDER

(Order of the Court was made by T.RAJA, J.)

This Writ Petition has been filed seeking for issuance of a Writ of Mandamus, directing the respondents 1 to 7 to remove the encroachments made in the 'Nilaviyal Vandipathai' in Survey Nos.93/1 and 66/1 in accordance with G.O. (Ms) No.540 of 2014 and to bring the land to its original form by considering the representation of the petitioner dated 14.07.2021.

2. Learned Counsel appearing for the petitioner would submit that the petitioner is doing agricultural works in S.F.Nos.45/6, 46/5A, 48/2, 48/1B, 50/2, 48/3, 48/4, 48/5, 48/6 and 65/1 at Kagam Village in Modakurichi Taluk, Erode District wherein the Nilaviyal Vandipathai is classified as a Cart Track that runs in S.Nos.66/1, 93/1, 64/1 and 65/1 and the patta land owners adjoining the said Nilaviyal Vandipathai have been using the said cart track for almost over 50 years by taking the agricultural produce through bullock carts and tractors by using the above said Nilaviyal Vandipathai. But the width of the cart track has been reduced because of the encroachments made by the respondents 8 to 10. In view thereof, a representation has been given on 14.07.2021 to the respondents 1 to 7 by the petitioner herein to remove the encroachments made in the Cart Track. The respondents 1 and 3 have forwarded the same to the 5th respondent herein directing him to conduct an inspection on the said R.S.Nos.93/1, 66/1 and to take immediate steps on the same. After issuing notice to the private respondents/obstructors for enquiry, a date was fixed for hearing in the Proceedings dated 07.03.2017 by the 5th respondent herein. Thereafter, the 8th respondent has also filed W.P.No.5755/2018 before this Court seeking to quash the proceedings of the 5th respondent dated 07.03.2017. This Court by a Common Order dated 08.03.2022 passed in W.P.Nos.5754 and 5755/2018 directed the 3rd respondent therein, namely, The Tahsildar, Modakurichi Taluk, Erode District to pass appropriate orders, considering the objection of the petitioners therein after hearing the petitioners as well as the 4th respondent therein within a period of four weeks from the date of receipt of a copy of that order. Therefore, according to the learned



Counsel for the petitioner, the 3rd respondent therein, namely, The Tahsildar, Modakurichi Taluk, Erode has to consider and pass appropriate orders. He would further submit that on an earlier occasion, i.e. on 07.03.2017, the Revenue Thasildar, Modakkuruchi Taluk, Erode District, the 5th respondent herein has passed an order directing the Circle Sub-Inspector, Modakurichi, to survey and measure the land and identify the encroachments, however, since there has been an order passed by this Court on 08.03.2022 that order also has to be complied with. Therefore, a fresh enquiry has to be done and after completion of the enquiry, suitable action has to be taken by the 5th respondent for removing the encroachments, if any.

3. Learned Special Government Pleader appearing for the respondents 1 to 5 based on the earlier proceedings dated 07.03.2017 passed by the Revenue Tahsildar, Modakuruchi would state that a notice dated 22.11.2019 has been issued to all the encroachers. Now in view of the direction issued by this Court in W.P.Nos.5754 and 5755/2018 dated 08.03.2022, they have also found out the encroachments. In this regard, the learned Special Government Pleader has also produced a letter dated Nil in Na.Ka.No.4662/2017/A2 of the Revenue Tahsildar, Modakurichi addressed to him. Therefore, as there is already an order dated 08.03.2022 passed by this Court in W.P.Nos.5754 and 5755/2018, directing the Tahsildar, Modakurichi Taluk to pass suitable orders and there are also sufficient evidences to show that there are encroachments, the same have to be removed, it is pleaded.

4. Learned Special Government Pleader for the respondents 1 to 5 would further state that initially two weeks time may be granted informing the encroachers to give their explanation and thereafter, 15 days time may be granted to consider the same and subsequently, as there is a provision for filing appeal petition under Section 10-A of the Tamil Nadu Encroachment Act by the encroachers, if aggrieved, after complying with all these formalities, action will be taken immediately against the encroachers by the official respondents concerned.

5. Recording the said submission of the learned Special Government Pleader for the respondents 1 to 5, the Writ Petition is disposed of. The above said exercise shall be completed within a period of three months from the date of receipt of a copy of this Order. No costs.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar



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To

- 1.The District Collector,
Erode District, Erode.
- 2.The District Revenue Officer,
Erode District, Erode.
- 3.The Revenue Divisional Officer,
Erode District, Erode.
- 4.The Thasildar,
Modakkuruchi Taluk, Erode District.
- 5.The Revenue Thasildar,
Modakkuruchi Taluk, Erode District.
- 6.The Block Development Officer,
Modakkuruchi Taluk, Erode-2.
- 7.The President,
Kagam Village Panchayat,
Vilakethi Post, Sivagiri Vazhi,
Erode District.

+1cc to Mr.S.Ravikumar, Advocate SR. No. 18224
+1cc to Government Pleader SR. No. 17800
+1cc to Mr.M.Guruprasad, Advocate SR. No.17614

W.P.No.5002 of 2022

MT (CO)
PR (08/04/2022)