



C.R.P.No.3915 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.12.2022

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

C.R.P.No.3915 of 2015

and

MP.No.1 of 2015

The President
Thanikottagam Panchayat
Thanikottagam Village
Vedaranyam Taluk
Nagapattinam District.
Defendant/Petitioner

... 5th

.Vs.

- 1.V.Sankaran
- 2.S.Ramasamy
- 3.V.Ramanthan
- 4.M.Karunanithi
- 5.M.Arumugam
- 6.R.Sambasivam
- 7.N.Kannan
- 8.V.Asokan
- 9.I.Shanmugam
- 10.K.Govindasamy
- 11.K.Veeraiyan



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12.P.Veerabadran
13.N.Ramamirtham

14.M.Thangarasu

15.V.Anjammal

16.S.Muniappan

17.V.Murugaiyan

18.S.Kamala

19.K. Vincent

20.V.Somasundaram

21.N.Viji

22.S.Pankajavalli

23.Smt.U.Panneerselvam

..Plaintiffs/Respondents

24.Tamil Nadu State
Rep.by the District Collector
Nagapattinam
Collectorate Complex,
South Palpannaichery
Nagapattinam.

25.The District Collector
Nagapattinam
Collectorate Complex,
South Palpannaichery
Nagapattinam.

26.Tahsildar
Vedaranyam Taluk Office
Vedaranyam.

27.Executive Engineer
PWD Vennar Division
P.W.D. Office, Opp. to Indian Bank



Thiruvallur.



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..Defendants 1 to 4/Respondents

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Prayer:- Civil Revision Petition filed under Article 227 of Constitution of India, to struck off the plaint in O.S.No.78 of 2015, on the file of the Sub Court, Nagapattinam.

For Petitioner : Mr.S.Sathiamurthi

For Respondents : R1 to R27 notice served
No appearance

ORDER

This Civil Revision Petition has been filed to strike off the plaint in O.S.No.78 of 2015, pending on the file of the Sub Court, Nagapattinam.

2.The respondents 1 to 23/plaintiffs filed the suit before the Court below seeking for the relief of declaration, mandatory injunction and permanent injunction as against the petitioner and four others. The suit was filed mainly on the ground that the officials are attempting to remove the plaintiffs from the suit properties and according to the plaintiffs, they are doing agricultural activities in the suit properties. The 5th defendant – Panchayat has filed this Civil Revision Petition on the ground that a similar claim that



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was made by the plaintiffs was rejected by this Court and was also confirmed by the Division Bench and that the plaintiffs are attempting to move one more round of litigation in an issue which has already become final.

3.Heard Mr.S.Sathiamurthi, learned counsel for the petitioner. The respondents have been served notice and all their names have been printed in the cause list. However, there is no appearance on behalf of the respondents either in person or through counsel.

4.The area comprised in Survey No.243/2A-1 measuring an extent of 191.15 acres in Thanikottagam Village, Vedaranyam Taluk, Nagapattinam District is an eriporamboke. The same is clear from the entries made in the revenue records. This vast extent was not properly maintained and hence, water was not stored and the said place came to be put to use by several persons. The Government allotted funds for restoring the water body and the resolution was passed by the Panchayat on 26.01.2006, to deepen the tank and to construct bund on all the four sides. A tentative cost was also arrived at. Steps were also taken to remove the encroachment.

5.The 1st respondent filed a Writ Petition in W.P.No.26445 of 2014, before this



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Court on the ground that he has been cultivating the lands and that he should not be evicted from the property. Some directions were issued by this Court to the revenue authorities to consider the claim made by the 1st respondent, who was seeking for patta. This Court also directed the District Collector, to conduct an enquiry. Ultimately, a final order was passed on 10.08.20215 and this Court found that the 1st respondent is not entitled for any relief as sought for by him and the writ petition was dismissed.

6.The admitted case of the respondents/plaintiffs is that they are in occupation of the property and that they have been paying the penal charges. Hence, it is clear that they are occupying the property which is a water body, only in their capacity as encroachers. In view of the same, there is no question of filing a suit and restraining the authorities from taking action. Insofar as the water bodies are concerned, this Court has repeatedly held that the encroachments must be removed and various directions have been issued by this Court. Therefore, there is no question of filing a suit and restraining the authorities from taking action from removing the encroachment from the water body. The suit filed by the respondents/plaintiffs is clearly an abuse of process of Court, which requires the interference of this Court in exercise of its jurisdiction under Article 227 of the Constitution of India. The availability of an alternate remedy under Order VII Rule 11 of CPC., cannot be construed as a near total bar for this Court



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to exercise its jurisdiction under Article 227 of the Constitution of India. Even though, this power must be exercised sparingly, in the facts of the present case, where encroachments were found in the water body, allowing a suit to be contested for years together, will go against public interest and it will come in the way of implementing the directions issued by this Court for removal of encroachments from water bodies.

7.In the light of the above discussion, the suit in O.S.No.78 of 2015, on the file of the Sub Court, Nagapattinam, is hereby struck off and this Civil Revision Petition is accordingly allowed. No costs. Consequently, connected miscellaneous petition is closed.

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KP
Internet
Index:Yes/No
Speaking Order: Yes/No



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To

- 1.Sub Court,
Nagapattinam.
- 2.The District Collector
Tamil Nadu
Nagapattinam
Collectorate Complex,
South Palpannaichery
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N.ANAND VENKATESH. J.,

KP

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