



W.P.No.31947 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2022

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.31947 of 2022

K.Kaliyamurthy

.. Petitioner

vs

- 1.The District Collector,
O/O The District Collector,
Kallakuruchi District.
- 2.The Block Development Officer,
Panchayath Union, Chinnasalam,
Kallakuruchi Taluk,
Kallakurichi District.
- 3.The Tahsildar,
O/o The Tahsildar,
Kallakuruchi Taluk,
Kallakurichi District.
- 4.The Special Tahsildar,
O/o Adi-Dravidar Welfare Department,
Kallakuruchi Taluk,
Kallakurichi District.

5.P.Kandhasamy

.. Respondents



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Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus to call for the records relating to Na.Ka.No.aa1/206/2020 dated 15.11.2022 issued by the second respondent and quash the same and further direct the first respondent to consider the representation dated 21.11.2022.

For the Petitioner : Mr.R.Karthik

For the Respondents : Mrs.R.Anitha
Spl. Government Pleader
for respondent Nos.1 to 4

ORDER

(Order of the court was made by the Hon'ble Acting Chief Justice)

This writ petition has been filed by the petitioner challenging the impugned proceedings dated 15.11.2022 issued by the second respondent/Block Development Officer, whereby the encroachment made by the petitioner in the public street was directed to be removed.

2. Learned counsel appearing for the petitioner submitted that the impugned proceedings is the outcome of the order passed by this Court in W.P.No.6710 of 2020, dated 3.2.2021, wherein a simple prayer for issuance of writ of mandamus to direct the third



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respondent therein to remove the encroachment made by respondents 5 and 6 therein in the Government poramboke land in Survey No.22 situated at Nallathur Village, Kallakuruchi Taluk was made. He would submit that this Court in the said order clearly stated that without examining the merits of the representations submitted by the petitioner therein, the official respondents concerned shall consider and dispose of the representations by a speaking order within a period of six weeks from the date of receipt of a copy of the order after providing a reasonable opportunity to respondents 5 and 6 therein.

3. Learned counsel for the petitioner further submitted that the petitioner is in possession and enjoyment of the land in question for several decades and, therefore, the removal of encroachment cannot be considered. He added that the petitioner has also made an application for grant of patta.

4. We are unable to find any justification in the writ petition. The reasons are three-fold: firstly, the impugned proceedings dated 15.11.2022 clearly shows that the petitioner is an encroacher of the



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public street; secondly, the petitioner has not produced any revenue records to show that the land in question is not forming part of public street; thirdly, the communication of the Special Tahsildar (ADW), dated 19.5.2022 (found at page no.63 of the typed-set of papers) clearly establishes that the petitioner has encroached upon the land covered in S.No.22/1, which is marked as pathai poramboke in Nallathur village. Therefore, we do not find any merit in the writ petition.

Accordingly, the writ petition is dismissed. However, it is made clear that if really the petitioner is aggrieved by the impugned proceedings, he is at liberty to file an appeal before the District Collector and it is for the District Collector to consider the same on merits and in accordance with law uninfluenced by the observations made in this order. There will be no order as to costs. Consequently, W.M.P.No.31389 and 31454 of 2022 are closed.

(T.R., ACJ.) (D.K.K., J.)
29.11.2022

Index : Yes/No
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WEB COPY

To:

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- 4.The Special Tahsildar,
O/o Adi-Dravidar Welfare Department,
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T.RAJA, ACJ.
AND
D.KRISHNAKUMAR,J.

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