



WEB COPY



WP Nos. 602 & 603 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2023

CORAM

THE HONOURABLE MR. JUSTICE R. MAHADEVAN
and
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

Writ Petition Nos. 602 & 603 of 2018

WP No. 602 of 2018

P. Balasubramaniam

.. Petitioner

Versus

1. The District Collector
District Collectorate,
Villupuram District.

2. The Revenue Divisional Officer,
Kallakurichi Taluk,
Villupuram District.

3. The Tahsildar,
Chinnasalem Taluk,
Villupuram District.

4. The Block Development Officer,
Block Development Office,
Chinnasalem & Taluk,
Villupuram District

5. V. Perumal

.. Respondents

W.P.No.603 of 2018

Chinnadurai

.. Petitioner

Versus



WP Nos. 602 & 603 of 2018

1. The District Collector,
District Collectorate,
Villupuram District.

2. The Revenue Divisional Officer,
Kallakurichi Taluk,
Villupuram District.

3. The Tahsildar,
Chinnasalem Taluk,
Villupuram District.

4. The Block Development Officer,
Chinnasalem Block & Taluk,
Villupuram District.

5. Selvam

6. Kannan

.. Respondents

WP No. 602 of 2018:- Writ Petition filed under Article 226 of the Constitution of India praying for issuing a Writ of Mandamus, directing the respondents 1 to 4 to consider the petitioner representation dated 29.09.2016 by removing the encroachments made upon in the Sunnambu Kal Odai situated S. No. 61 and 68 of Paithandurai Village, Chinnasalem Taluk, Villupuram District.

WP No. 603 of 2018:- Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus, directing the respondents 1 to 4 to consider the petitioner representation dated 31.08.2017 by removing the encroachments made upon in the Puliyamarathu Odai situated S.No.93/1, of Nagakuppam Village, Chinnasalem Taluk, Villupuram District within the time frame fixed by this Court.

WP No. 602 of 2018

For Petitioner : Mr. V.R. Kamalanathan

For Respondents : Mr. A.Selvendran
Special Government Pleader for R1 to R4
No appearance for R5.



WP Nos. 602 & 603 of 2018

WP No. 603 of 2018

WEB C

For Petitioner : Mr. V.R. Kamalanathan
For Respondents : Mr. A.Selvendran
Special Government Pleader for R1 to R4

COMMON ORDER

[Order of the Court was made by R. MAHADEVAN, J]

The prayer made in these Writ Petitions is to issue a Writ of Mandamus directing the respondents 1 to 4 to consider the representations of the Petitioners dated 29.09.2016 and 31.08.2017 respectively and to pass orders thereon for removal of the encroachments complained by them.

2. The petitioner in WP No. 602 of 2018 states that he owns agricultural lands in Survey Nos. 58/1 and 58/2 measuring 2.40 cents situated in Paithandurai Village, Chinna Salem Taluk, Villupuram District, where he is doing agricultural activities. It is further stated that adjacent to his lands, there is a cart track comprised in Survey No. 61 and 68 of Paithandurai Village on the bunds of a water channel called Sunnambu Kal Odai. It is further stated that the lands in Survey Nos. 61 and 68 are classified as *Vaari Poromboke* (Water channel) and the water flows thereof is being used by the petitioner and others in the Village for irrigation activities. It is also stated that the cart track



WP Nos. 602 & 603 of 2018

in the land in Survey No. 61 and 68 is being used for transporting agricultural produce harvested in the lands of the petitioner and others. While so, the fifth respondent in WP No. 602 of 2018 said to have put up a hut and also annexed to his agricultural land the cart track *inter alia* encroached upon the water channel. According to the petitioner, by virtue of such encroachment caused by the fifth respondent, his only access to reach the other parts of the Village through the cart track has been blocked. In this context, the petitioner submitted a representation dated 29.09.2016 to the respondents 1 to 4 to remove the encroachment made by the fifth respondent, but there was no response, hence, he has filed WP No. 602 of 2018 for the relief mentioned supra.

3. As far as WP No. 603 of 2018 is concerned, it is stated by the petitioner that he is the owner of the lands comprised in Survey Nos. 82, 86 and 87 measuring an extent of 5.80 cents in Maravanatham Village, Chinna Salem Taluk, Villupuram District, where he is doing agricultural activities. It is further stated that adjacent to his lands, there is a cart track on the bunds of a water channel comprised in Survey No. 93/9 of Nagakuppam Village and the water channel is called as Puliymarathu odai. It is also stated that land in Survey No.93/9 is classified as Pattai Poromboke in revenue records and the



WP Nos. 602 & 603 of 2018

cart track is being used by the petitioner and others for transporting the agricultural produce. While so, the fifth and sixth respondents have encroached the above said water body by putting a hut and by enclosing their land along with the water channel. It is further stated that by reason of such encroachment by the fifth and sixth respondents, the petitioner and others are not in a position to transport the agricultural produce and the only access to the land of the petitioner has been blocked. In this context, the petitioner had given a detailed representation on 28.11.2015 to the first respondent. On receipt of the same, the first respondent in his proceedings dated 03.12.2015 directed the third respondent to take necessary steps to remove the encroachment and to submit a report. The third respondent, in turn, by proceedings dated 29.01.2016 directed the fourth respondent to take steps for removal of encroachment and to send a report. However, no steps have been taken for removal of the encroachment. Therefore, the petitioner has once again given a representation dated 31.08.2017. On receipt of the same, the third respondent in his proceedings dated 11.09.2017 once again directed the fourth respondent to take steps to remove the encroachments complained of by the petitioner and to submit a report. However, no steps have been taken by the fourth respondent, hence, WP No. 603 of 2018 has been filed.



WP Nos. 602 & 603 of 2018

4. The grievance expressed by the petitioners in these writ petitions is common and identical. While the petitioner in WP No. 602 of 2018 complains that the land in Survey Nos. 61 and 68 of Paithandurai Village, Chinnasalem Taluk, which is classified as a Water Channel, has been encroached by the fifth respondent, the petitioner in WP No. 603 of 2018 states that the fifth and sixth respondents have encroached the land in Survey No. 93/9 of Nagakuppam Village, Chinna Salem Taluk. Further the encroachments complained of by the petitioners in these writ petitions is a water body. The further grievance expressed by the petitioners is that inspite of repeated representations the respondents 1 to 4 did not remove the encroachments.

5. However, when these writ petitions are taken up for consideration today, the learned Special Government Pleader appearing for the respondents 1 to 4, on instructions, submitted that the encroachments complained of by the petitioners have already been removed except a Well thereof.

6. However, such statement made by the learned Special Government Pleader has been refuted by the learned counsel for the petitioners by stating that the encroachments have not been removed.



WP Nos. 602 & 603 of 2018

7. Considering the rival submissions of the counsel for both sides, without going into the merits of the case, this Court directs the third respondents to consider the petitioners' representations dated 29.09.2016 and 31.08.2017 respectively, if not considered earlier and pass appropriate orders, on merits and in accordance with law, after affording an opportunity of hearing to all the parties concerned within a period of eight (8) weeks from the date of receipt of a copy of this order. It is needless to state that if there is any encroachment as alleged by the petitioners and if they are not removed till date, the respondents 1 to 4 shall take necessary steps to remove it, after following due process of law.

8. With the above directions, these Writ Petitions are disposed of.
No costs.

(R.M.D.,J.) (M.S.Q.,J.)

02.02.2023

ay/rsh

Index: Yes / No

Speaking Order / Non-speaking Order

Neutral Citation: Yes / No

Copy To

1. The District Collector,
District Collectorate,
Villupuram District.

2. The Revenue Divisional Officer,



WP Nos. 602 & 603 of 2018

Kallakurichi Taluk,
Villupuram District.

WEB COPY

3.The Tahsildar,
Chinnasalem Taluk,
Villupuram District.

4.The Block Development Officer,
Block Development Office,
Chinnasalem & Taluk,
Villupuram District.



WEB COPY



WP Nos. 602 & 603 of 2018

R. MAHADEVAN, J
and
MOHAMMED SHAFFIQ, J

ay/rsh

WP Nos. 602 & 603 of 2018

02.02.2023