



W.P.No.7488 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2023

CORAM :

THE HON'BLE MR. JUSTICE R. MAHADEVAN
AND
THE HON'BLE MR. JUSTICE MOHAMMED SHAFFIQ

W.P.No.7488 of 2018

P.Munusamy

... Petitioner

Vs.

1.The District Collector,
Kancheepuram District.

2.The Sub Collector,
Chengalpattu.

3.The Tahsildar,
Thiruporur Taluk,
Kancheepuram District.

4.The Assistant Engineer, PWD,
Irrigation Section,
Thirupporur -603 110.

5.C.Chandra

6.Bharathu
7.Govindaraj

... Respondents

(R6 & R7 are impleaded as per order
dated 09.04.2018 in W.M.P.No.10147 of 2017
in W.P.No.7488 of 2018)



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Writ Petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Mandamus, directing the respondents 1 to 4 to remove the encroachment of the fifth respondent's land and building measuring an extent of 0.18.5 Hectare (45 cents) in Survey No.128A/20 of Mambakkam Village, Thiruporur Taluk, Kancheepuram District.

For petitioner : Mr.T.Ramachandran

For respondents : Mr.A.Selvendran
Special Government Pleader
for R1 to R4

Mr.S.Gunasekaran for R6 & R7

ORDER

(Order of the Court was made by R. MAHADEVAN, J.)

The relief sought in this writ petition is to issue a writ of mandamus, directing the respondents 1 to 4 to remove the encroachment made by the fifth respondent in the land in Survey No.128A/20 measuring an extent of 0.18.5 Hectare (45 cents) in Mambakkam Village, Thiruporur Taluk, Kancheepuram District.

2. The petitioner stated in the affidavit filed in support of this writ petition that the land measuring an extent of 0.73.5 hectare (1 Acre and 82 cents) situated in S.No.128A/20 of Mambakkam Village, has been classified as water



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channel, in which, the landless poor people including the petitioner have constructed houses covered by thatched and tiled roof, thereby enjoying the same. While so, the fifth respondent along with her husband encroached the said water channel to an extent of more than 0.18.5 Hectare by constructing pucca building and carrying on commercial activities. Be that as it may, the President of Mambakkam Village sent a representation to the first respondent to remove the encroachment in S.No.128A/20. Upon receipt of the same, the first respondent directed the third respondent to take appropriate action. Pursuant to the same, the third respondent issued notice under Section 7 of the Tamil Nadu Encroachment Act, 1905, following which, section 6 notice came to be issued. Challenging the same, the fifth respondent filed appeal before the first respondent, who intturn dismissed the same, by order dated 21.02.2017 and directed the respondents 3 and 4 to take action for removal of encroachment. Accordingly, on 08.12.2017, the respondent authorities removed the encroachment made by all, except the fifth respondent. Feeling aggrieved, the petitioner sent representations dated 11.12.2017 and 12.02.2018 to the respondent authorities to remove the encroachment made by the fifth respondent, which has not been considered till date. Therefore, this writ petition.

3. However, when the matter was taken up for consideration, the learned counsel for the petitioner submitted that it would suffice, if a direction is given to



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the respondent authorities to consider the representation of the petitioner dated 12.02.2018 and pass orders, on merits, within a time frame to be stipulated by this court, for which, there is no serious objection on the side of the respondent authorities.

4. Considering the limited nature of the relief now sought by the learned counsel for the petitioner, which has not been seriously opposed on the side of the respondent authorities, this court, without going into the merits of the case, directs the respondent authorities to consider the petitioner's representation dated 12.02.2018, 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 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 petitioner, the same shall be removed, after following due process of law.

5. With the above directions, this writ petition stands disposed of. No costs.

[R.M.D,J.] [M.S.Q, J.]
02.02.2023

r n s
Speaking Order / Non-speaking order
Internet : Yes.
Index : Yes/No



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WEB COPY

To

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