



WEB COPY



WP No. 672 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.02.2023

CORAM

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

Writ Petition No. 672 of 2018

M. Rajasekaran

.. Petitioner

Versus

1. The Tahsildar
Namakkal District
Namakkal.

2. Chinnusamy

3. Jaganathan

.. Respondents

Petition filed under Article 226 of the constitution of India praying for issuance of a Writ of Mandamus, directing the first respondent to implement the order of the Revenue Divisional Officer, Namakkal dated 05.04.2017 having reference Na.Ka.No.1121/2017/A2.

For Petitioner : Mr. E.P. Senniyanigiri

For Respondents : Ms. R.L. Karthika
Government Advocate (For R1)

Mr. I. Abrar Md. Abdullah (For R3)

R2-No appearance



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ORDER

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

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This writ petition has been filed by the petitioner praying to issue a Writ of Mandamus directing the first respondent to implement the order of the Revenue Divisional Officer, Namakkal dated 05.04.2017 bearing reference Na.Ka.No.1121/2017/A2, forthwith.

2. According to the petitioner, the lands comprised in S.F. Nos. 513, 516 and 520 of Aarur Village, Namakkal District are classified as Government Poromboke in the revenue records where a cart track is existing. Adjacent to the aforesaid lands, there is a stream which is used for irrigation purpose. The grievance of the petitioner is that the respondents 2 and 3 herein have encroached the pathway by putting up physical structures, due to which the flow of stream has narrowed causing diversion of water. In this context, the petitioner submitted a representation dated 24.12.2016 to the first respondent, but he has not taken any action. The petitioner therefore filed an appeal before the Revenue Divisional Officer. On the basis of such appeal, the Revenue Divisional Officer, Namakkal himself conducted a field inspection along with his subordinates namely the first respondent, Revenue Inspector, Firka Surveyor, Head Surveyor, Village Administrative Officer and other officials.



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After such field inspection, the Revenue Divisional Officer passed the order dated 05.04.2017 directing the first respondent to initiate appropriate action by invoking the Tamil Nadu Land Encroachment Act to evict the encroachers. In spite of such direction, till date, no action has been taken by the first respondent. Therefore, the petitioner has filed this writ petition.

3. The learned counsel for the petitioner submits that the Revenue Divisional Officer conducted an inspection and passed the order dated 05.04.2017 specifically stating that the land in Survey No. 516 is classified as "Vandipathai" and the land in Survey No.520 as "Padhai" (pathway) and it was occupied by the third respondent. Therefore, the first respondent was directed to remove such encroachments caused by the third respondent. In spite of such specific order, the first respondent did not take any action so far. Therefore, the learned counsel for the petitioner prayed this Court to direct the first respondent to forthwith implement the order dated 05.04.2017 of the first respondent without any further delay and to remove the encroachments caused by the third respondent.

4. The learned Government Advocate for the first respondent submitted that the land in survey No.516 is classified as '*Government Poromboke*



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Vandipathai (Cart track) and Survey No. 520 as 'Paathai' (pathway) in the revenue records. He also submitted that already, a notice dated 17.04.2017 was issued to the third respondent under the Tamil Nadu Land Encroachment Act, 1905 and further action will be pursued at the earliest.

5. Considering the submissions so made by the learned Government Advocate appearing for the first respondent, this court directs the first respondent to take necessary action for removal of encroachments from the lands in question on the basis of the order dated 05.04.2017 passed by the Revenue Divisional Officer, Namakkal, by following the due process of law, within a period of eight (8) weeks from the date of receipt of a copy of this order.

6. With the above direction, this writ petition is disposed. No costs.

[R.M.D., J.] [M.S.Q., J.]
16.02.2023

Index : Yes/No
Neutral Citation : Yes/No
Speaking/Non-Speaking Order
Maya/rsh

To
The Tahsildar

<https://www.mhc.tn.gov.in/judis>



Namakkal District
Namakkal

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