



W.P.No.13203 of 2021

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.06.2023

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKEAVALU

W.P.No.13203 of 2021

S.Swamynathan

.. Petitioner

Vs.

1. The Principal Secretary to Government
Revenue Department
Government of Tamil Nadu
Rajaji Salai, Chennai – 600 009.
2. The Additional Commissioner
(Film and Irrigation)
Government of Tamil Nadu
Rajaji Salai, Chennai – 600 009.
3. The Additional Chief Secretary
Commissioner for Land Administration
Rajaji Salai, Chennai – 600 009.
4. The District Collector
Chennai District
Rajaji Salai, Chennai – 600 009.



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5. The District Revenue Officer
Chennai District
Rajaji Salai, Chennai – 600 009.

6. The Tahsildar
Ayyanavaram Taluk
Chennai – 600 023.

7. Soloman

8. Veera

9. Murugesan

10. G.Srinivasan

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus, directing the fourth respondent to consider the representation dated 10.10.2019 of the petitioner and to evict the encroachers from the Eri purampoke land in Town Survey No.29, Block No.3 at Kolathur Village, Ayanapuram Taluk, Chennai so as to save the natural water resources in accordance with law within a time frame as may be fixed by this Hon'ble Court.

For the Petitioner : No Appearance

For the Respondents : Mrs.R.Anitha
Special Government Pleader
for R1 to R6

Mr.Avinash Wadhwani
for Mrs.V.Srimathi
for R8

No Appearance
for R7, R9 & R10



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ORDER

(Made by the Hon'ble Chief Justice)

This Court, on 24.06.2021, passed the following orders:

"The Petitioner has been fighting for retrieving the property, which is classified as Eri Porompoke land in Town Survey No.29, Block No.3 at Kolathur Village, Ayanapuram Taluk, Chennai right from 25.03.2004 by giving a complaint to the 1st respondent.

2.Mr.P.Balathandayutham, learned State Government Counsel takes notice on behalf of respondents 1 to 6. Notice to the respondents 7 to 10 returnable by 12.07.2021. Private notice including email, whatsapp, courier and speed post is also permitted.

3.According to the Petitioner, Town Survey No.29, Block No.3 at Kolathur Village, Ayanapuram Taluk, Chennai, is a Eri Porompoke land and the encroachers have started encroaching upon the



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water body and have constructed houses. Therefore, the petitioner gave the following complaints:

(a) Complaint to V4 Police Station, Rajamangalam on 17.03.2004.

(b) Complaint to the 6th Respondent dated 19.03.2021 and

(c) Complaint to the 1st Respondent on 25.03.2004.

4.The District Collector had directed the Tahsildar to find out as to whether there was encroachment or not. The Tahsildar on inspection, had sent a report on 18.05.2005 to the District Collector stating that four persons viz., (i) Mr.Veera, (ii) Mr.Murugesan, (iii) Mr.V.Salomon & (iv) Ms.Amirthammal are encroached upon the water body comprised in Old Survey No.11/10, Town Survey No.29, Block No.3 at Kolathur, to the extent of 0.04.64.0 Ares. Subsequently, the Collector had wrote to the Tahsildar on 06.02.2009, to find out as to whether the encroachments have been removed or not.



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However, no action has been taken. Again the 1st respondent had wrote to the District Collector on 20.11.2019 to take action to remove the encroachment in Town Survey No.29, Block No.3 at Kolathur Village, Ayanapura Taluk, Chennai.

5. From the above, it is clear that the Petitioner has been fighting for retrieving of the property and official proceedings are also pending with regard to the removal of the encroachment. However, no fruitful action has been taken.

6. Therefore, official respondents shall file a comprehensive report on the following:

(a)What are all the actions taken in this regard, so far?

(b)Whether the encroachment has been removed?

(c)If the encroachment has not been removed, when it will be removed?

Call the matter on 12.07.2021."



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2. Thereafter, a status report was filed by the Government, placing on record that the alleged encroachment has been removed.

3. An intervene application has been filed. The applicant of the intervene application contends that, in fact, the applicant is not an encroacher and is the assignee of the land under valid instrument. The State Authorities, under the garb of the order being there for removal of encroachments and without resorting to the provisions of law and adhering to the principles of natural justice, demolished the legitimate construction of the applicant.

4. Learned counsel for the applicant submits that, in fact, the petition was not *bona fide* and even the petitioner was aware that the writ land is assigned to the present applicant. The averment itself suggests that the applicant has purchased the property, still the petition was filed.



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5. When this Court passed an order on 24.06.2021, directing the respondents to file a comprehensive report about the actions regarding the encroachments being removed and if the encroachments are not removed, then, when the same would be removed, this Court certainly expected the Authorities to follow the due procedure of law.

6. This Court while passing the order on 24.06.2021, did not arrive at a conclusive finding of existence of encroachments or otherwise. It was guided by the letter written by the first respondent to the District Collector on 20.11.2019 to take action to remove the encroachment in Town Survey No.29, Block No.3 at Kolathur Village and also the inspection report of the Tahsildar dated 18.05.2005.

7. In case, the applicant of the intervene application is aggrieved by any actions of the respondents in demolishing the construction on the ground that he has illegitimately occupied the writ property and unauthorizedly constructed the superstructure thereon, the applicant is at liberty to take appropriate steps in that regard to vindicate his rights and grievances. In that event, the order passed in the present writ



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petition would not be an impediment. All contentions of the parties are kept open. In case, the applicant in the intervene application resorts to such proceedings, then the Authorities or the Forum would consider the same on its own merits.

8. With these observations, the writ petition and the intervene application, i.e, W.M.P.No.23556 of 2022 are disposed of. There will be no order as to costs.

(S.V.G., CJ.)

(P.D.A., J.)

26.06.2023

Index : Yes/No
Neutral Citation : Yes/No

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THE HON'BLE CHIEF JUSTICE
AND
P.D.AUDIKESAVALU, J.

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