



W.P.No.18012 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.09.2023

CORAM :

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

AND

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

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S.M.Govindasamy

.. Petitioner

Vs.

1. The District Collector
The Office of the Collector
Perundurai Road
Erode – 638 011.
2. The District Revenue Officer
The Office of the District Collector
Perundurai Road
Erode – 638 011.
3. The Revenue Divisional Officer
Pirab Road
Erode – 638 001.
4. The Revenue Tahsildar
Taluk Office
Erode – 638 001.
5. K.Venkatachalam @ Balasubramani

.. Respondents



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Prayer: Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus, directing the respondent 1 to 4 to remove the encroachments made in Sunnambu Canal which runs through the Perode, Chitode, Sarkar Periya Agraharam, Kumilamparapu, Nallagoundan Palayam, Suriyampalayam-Aa Villages in Erode Taluk, Erode District based on the enquiry held by the 3rd respondent and his enquiry report dated 11.8.2017 and restore the water canal in its original extent.

For the Petitioner : Mr.Barani Chander

For the Respondents : Mr.K.M.D.Muhilan
Additional Government Pleader
for R1 to R4

Mr.P.J.Rishikesh
for R5

ORDER

(Made by the Hon'ble Chief Justice)

Heard Mr.Barani Chander, learned counsel for the petitioner, Mr.K.M.D.Muhilan, learned Additional Government Pleader for respondents 1 to 4 and Mr.P.J.Rishikesh, learned counsel for respondent 5.

2. The petitioner alleges encroachment in Sunnambu Canal, which according to the petitioner runs through the Perode, Chitode, Sarkar Periya Agraharam, Kumilamparapu, Nallagoundan Palayam,



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3.1. Learned counsel for the petitioner submits that the petition has been filed based on the enquiry report dated 11.08.2017 for the purpose of restoration of the water Canal to its original extent. According to the learned counsel for the petitioner, the status report filed on behalf of the third respondent is erroneous and it does not confirm the actual status of the site.

3.2. It is submitted that on the banks of the Sunnambu Canal, there are eighteen houses constructed by the Scheduled Caste people, who are residing there. These encroachers have been allotted house sites by the Tamil Nadu Slum Clearance Board, but till date, the said encroachments have not been removed. It is further stated that there are residential properties and structures in the Odai at Perode village. The same has been suppressed and also has not been represented in the status report.



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3.3. In Chitode village, the pathway of Odai has been blocked by commercial buildings; The encroachers have removed the identity of Odai and piled up sand over the Odai. Even in the case of Suriyampalayam Village, the names of the encroachers are included as beneficiaries for the homeless, still they are occupying it.

3.4. In Sarkar Periya Agraharam village, the Canal is flanked by agricultural lands; private entities have encroached the area and it has resulted in a narrow flow. In Nallagoundampalayam village, the local residents are the encroachers on the Odai poramboke land and the status report is not in tune with the actual state of affairs.

4. Learned counsel for the fifth respondent submits that the fifth respondent is not an encroacher nor the name of the fifth respondent appears to be in any of the enquiry.

5. The petitioner also has not impleaded the alleged encroachers in the present petition as parties.



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6. From the status report, it appears that in the Kumilamparapu village, so also the Suriyampalayam village, there are some encroachments. Those persons have been held to be the beneficiaries for the alternate accommodation, being constructed by the Tamil Nadu Slum Clearance Board. Such persons will be required to be removed once they are allotted house sites by the Tamil Nadu Slum Clearance Board. The said encroachments shall be immediately removed by the respondent authorities. As far as 2C pattas (The Tree Patta Scheme) are concerned, the issuance of 2C pattas have not been challenged.

7. Issuance of pattas can be challenged before the authorities, as provided under the provisions of the Patta Passbook Act, 1983 or as under the Revenue Standing Orders.

8. It is further stated in the status report that except the houses constructed for the beneficiaries in the two villages and issuance of 2C pattas, there are no other encroachments.



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9. In view of the above, the writ petition stands disposed of.

There will be no order as to costs. Consequently, W.M.P.No.25880 of 2023 is closed.

(S.V.G., CJ.)

(P.D.A., J.)

07.09.2023

Index : Yes/No
Neutral Citation : Yes/No

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THE HON'BLE CHIEF JUSTICE
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