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W.P.No.35085 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.01.2023

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.35085 of 2022

Anbumani

S/o Subramani

..

Petitioner

v

1. The Director
Government of India
National Commission for Scheduled Castes
Sastri Bhavan, Block V, II Floor
No.26, Haddows Road
Nungambakkam, Chennai 600 006

2. The District Collector
Kanchipuram
Kanchipuram District

3. The Commissioner of Police
8/1, HVP Estate
Bhaktavalapuram
Avadi, Chennai 600 054



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4. The Tahsildar
Kundrathur Taluk Office
Chennai

5. The Inspector of Police
T-14, Mangadu Police Station (L&O)
Chennai

6. Mr.Kandan
S/o Durai

.. Respondents

Petition under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents 2 and 3 to implement the order of the 1st respondent in F.No.7/211/2022 Rep dated 02.12.2022 and direct the respondents 2 to 5 to remove the encroachments made by the 6th respondent on the Vaaikkal which is situated in S.No.347/1,344 and around in S.No.343, 345, 346 and 347 in K.K.Nagar, Mangadu Municipality, Kundrathur Taluk, Kanchipuram District, based on the representation of the petitioner dated 14.11.2022 and 06.12.2022 stipulated time may be fixed by this Hon'ble Court.

For Petitioner :: Mr.B.Sridhar

For Respondents :: Mr.C.Samivel
Senior Panel Counsel for R1
Mr.P.Muthukumar
State Government Pleader
for R2 to R5
Mr.R.Ragavendran for R6



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ORDER

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This writ petition has been filed seeking for issuance of a mandamus, directing the respondents 2 and 3 to implement the order of the 1st respondent in F.No.7/211/2022 Rep dated 02.12.2022 and direct the respondents 2 to 5 to remove the encroachments made by the 6th respondent on the Vaaikkal, which is situated in S.Nos.347/1, 344 and around in S.Nos.343, 345, 346 and 347 in K.K.Nagar, Mangadu Municipality, Kundrathur Taluk, Kanchipuram District, based on the representations of the petitioner dated 14.11.2022 and 06.12.2022 within a stipulated time fixed by this Court.

2. Heard the learned counsel appearing for the parties.

3. When the matter was taken up on 28.12.2022, this Court has passed the following order:-

"At Kundrathur Taluk, Mangadu
Municipality, Kancheepuram District in



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K.K.Nagar, Survey Nos.347/1, 344 are classified as “Vaaikkal”.

2. Neither the petitioner nor the 6th respondent can claim even possessory right of those two survey numbers which are classified as “Vaaikkal”. There are adjacent lands in Survey Nos.343, 345, 346 and 347, which are classified as Natham Poramboke land.

3. It is stated by the learned counsel, who has appeared on behalf of the 6th respondent that Survey Nos.343, 345 are patta lands standing in the name of the 6th respondent.

4. These are issues on fact which can be verified only by the respondents, particularly, the 4th respondent/Tahsildar, Kundrathur Officer.

5. The learned Additional Government Pleader has to obtain necessary instructions from the 4th respondent about the nature of the lands in Survey Nos.343, 345, 346 and 347 in K.K.Nagar, Mangadu Municipality.

The authorities may also ensure that there are no encroachments over any portion of the lands in Survey Nos.347/1 and 344 which are classified as



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“Vaaikkal”.

6. Let a report be filed before this Court.
7. Let records be exchanged.
8. For filing Status Report and counter by the contesting respondent, list the matter once again on 11.01.2023."

4. Today when the matter has been taken up for hearing, the learned State Government Pleader appearing for the respondents 2 to 5 has produced the counter affidavit of the Tahsildar, Kundrathur, the fourth respondent herein, wherein it has been stated, in paragraphs 7 & 8, as follows:-

"7. It is humbly submitted that as per the Hon'ble High Court order, survey of field have been done and found as follows:

Sl. No.	S.No.	Extent (Hec-tares)	Classifi-cation	Patta Number and Name of the Pattadhar	Encroachment found
1	344	0.03.50	Vaikkal	Government Land	Rented for Tasmac Shop No.4162 by one Tmt.Jayalakshmi W/o Rajabathar and Bar owned by Thiru.Anbumani (petitioner herein)
2	347/1	0.11.65	Vaikkal	Government Land	Encroachment by above 20 Nos. of residential structures (partly)

8. It is humbly submitted that enumeration of the above



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encroachments is in process and Form I notification will be communicated to the Public Works Department (Water Resources Department), the concerned authority to whom the above Vaikkal is vested with under "THE TAMIL NADU PROTECTION OF TANKS AND EVICTION OF ENCROACHMENT ACT 2007."

5. A perusal of the counter affidavit filed by the fourth respondent shows that the petitioner is also one of the encroachers. Although the learned counsel appearing for the petitioner submitted that the sixth respondent has also encroached the lands in the survey numbers in question and trying to put up construction, the said statement is denied by the learned counsel appearing for the sixth respondent stating that the sixth respondent is not an encroacher and it is his patta lands.

6. In view of the above, we direct the respondents 2 to 5 to take appropriate action for removal of all the encroachments in the Vaikkal in Survey Nos.344 and 347/1 made by the petitioner or the sixth respondent and others in K.K.Nagar, Mangadu Municipality, Kundrathur Taluk, as per



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law, within a period of eight weeks from the date of receipt of a copy of this order. With this direction, the writ petition stands disposed of accordingly.

Consequently, W.M.P.No.34535 of 2022 is closed. However, there shall be no order as to costs.

Speaking/Non speaking order

(T.R.,A.C.J.) (D.B.C.,J.)

Index : yes/no

12.01.2023

ss

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