



WEB COPY

W.P. No.28632 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.08.2023

CORAM:

THE HON'BLE MR. JUSTICE S. VAIDYANATHAN
and
THE HON'BLE MR. JUSTICE K. RAJASEKAR

W.P. No.28632 of 2018

G. Dheenadayalan

Petitioner

v

1 The District Collector
Kancheepuram District
Kancheepuram

2 The District Revenue Officer
Chengalpattu

3 The Tahsildar
Chengalpattu

4 T. Ravi
President of Panchayat Board Venkatamangalam
and Panchayat Venkatamangalam
Kancheepuram District

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondents 1 to 3 to implement and comply with the order dated 08.03.2016 passed by this Court in W.P. No.8170 of 2016.

For petitioner

Mr. L. Sankaran

For RR 1 – 3

Mr. A. Selvendran
Special Government Pleader



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ORDER

(made by S. VAIDYANATHAN, J.)

This writ petition has been filed seeking a writ of mandamus directing the respondents 1 to 3 to implement and comply with the order dated 08.03.2016 passed by this Court in W.P. No.8170 of 2016.

2 Earlier, one Gopal filed W.P. No.8170 of 2016 seeking a writ of mandamus directing the official respondents to take appropriate action to remove the encroachments made by the fourth respondent in S.No.164C and 165B in Rathinamangalam Village, Chengalpattu Taluk, Kancheepuram District.

3 On 08.03.2016, when the above writ petition came up for hearing, based on the submission made by the learned Special Government Pleader, this Court directed the respondents 1 to 3 to take appropriate action within six weeks, after issuing notice to the encroachers and disposed of the writ petition.

4 Alleging noncompliance of the aforesaid order, the said Gopal filed a contempt petition being Cont. Petn. No.2455 of 2016, wherein, this Court, finding inaction on the part of the official respondents, warned the Tahsildar to be careful in future and directed that necessary entries be made in his service register. Not



stopping with that, this Court imposed costs of Rs.5,000/- payable by the Tahsildar to the petitioner, towards cost of litigation.

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5 Pursuant to the aforesaid order passed by this Court, the District Collector, Kancheepuram, *vide* proceedings dated 05.01.2017, rejected the objections of the encroachers and identified 29 encroachers in S.No.164/C and 17 encroachers in S.No.165/B.

6 Thus, from the aforesaid proceedings of the District Collector, it is clear that the place in question is a water body. The petitioner who had filed W.P. No.8170 of 2016 and Cont. Petn. No.2455 of 2016 had passed away on 26.11.2016 and the instant writ petition has been filed by one Dheenadayalan, on the ground that the order dated 08.03.2016 passed in W.P. No.8170 of 2016 has to be implemented.

7 Though, pursuant to the orders passed by this Court in the earlier round of writ petition and contempt petition filed by Gopal, the District Collector, Kancheepuram, has issued proceedings dated 05.01.2017 identifying encroachers as stated above, we are not aware as to whether the said encroachments have actually been removed or not.



8 Be that as it may, now that the encroachments have been identified and the objections of the encroachers also overruled by the District Collector, Kancheepuram, pursuant to the orders passed by this Court adverted to above, this writ petition is not maintainable. But, at the same time, at the cost of repetition, we hasten to add that we are not aware as to whether the proceedings dated 05.01.2017 of the District Collector, Kancheepuram, remains only on paper or the encroachments have actually been removed. As observed by us above, this writ petition is not maintainable. However, we grant liberty to the petitioner to approach the appropriate forum in the event of the encroachments identified *vide* proceedings dated 05.01.2017 of the District Collector, Kancheepuram, not having been removed. Further, the District Collector, Kancheepuram, is expected to file a report before the Registrar General of this Court as to the status of removal of encroachments set out in his proceedings dated 05.01.2017, apart from handing over a copy of the same to the petitioner. The principle laid down by this Court *vide* order dated 27.01.2022 in W.P. No.28143 of 2021 referring to the decision of the Apex Court needs to be followed by the authorities to avoid major punishment for dereliction of duties against erring officials, after conduct of disciplinary proceedings.

This writ petition stands dismissed with the above observations. Costs made easy.

(S.V.N., J.) (K.R.S., J.)
21.08.2023



cad

To

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and

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