



W.P.No.34882 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.11.2023

CORAM :

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

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.34882 of 2018

1.J.Kalan
2.Veerasamy

.. Petitioners

VS

1.The District Collector,
Nilgiris District,
Ootacamund-643 001.

2.The District Forest Officer,
North Udhamandalam,
Nilgiris District.

3.The Tahsildar,
Ootacamund Taluk,
Nilgiris.

4.The Superintendent of Police,
Nilgiris, Ootacamund.

5.Sujatha

.. Respondents

(Respondent No.5 impleaded vide order
dated 21.6.2019 in WMP No.16163 of 2019)



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Prayer : Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the respondents 1 to 3 to evict the makeshift temple, the shop and the other encroachments from the 17 acres of the Government Land in Old Survey No.268/5, (New Survey No.395), Vazhaithotham Village, Masinagudi, Nilgiris District.

For the Petitioners : Mr.C.A.Diwakar

For the Respondents : Mr.T.K.Saravanan
Government Advocate
for respondents 1 to 4

: Dr.P.Vasudevan
for respondent No.5

ORDER

(Order of the court was made by the Hon'ble Chief Justice)

Heard Mr.C.A.Diwakar, learned counsel for the petitioners;
Mr.T.K.Saravanan, learned Government Advocate for respondents 1 to 4; and, Dr.P.Vasudevan, learned counsel for respondent No.5.



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2. The third respondent has filed an affidavit. It is stated in the said affidavit that the first petitioner has already filed a writ petition, bearing W.P.No.19465 of 2017 and W.M.P.No.20988 of 2017, before this Court and sought directions against respondents 1 to 3 to evict the encroachments from 17 acres of the government land in Old Survey No.268 and new Survey No.395 in Vazhaithottam Village, Masinagudi, Nilgiris District and a Division Bench of this Court passed the following order:

"2. The petitioners are the residents of Vazhaithottam, Masinagudi, The Nilgiris District and they have filed this writ petition as public interest litigation to direct respondent Nos.1 to 3 to evict/remove the encroachments in Government land comprised in Old Survey No.268/5 (New Survey No.395) measuring an extent of 17 acres.

3. It appears that the said land was earlier used by AAVIN/respondent No.5 for a chilling plant, subsequently, they have re-located the plant to a different location and that the land was not utilised. It appears that the villagers have encroached upon the said land and put up thatched huts. The learned



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counsel appearing for the petitioners has also produced photographs taken on 02.8.2017. On a perusal of the same, we find that there are small huts here and there in the said land.

4. Learned Government Pleader appearing for respondent Nos.1, 3 & 4 would submit that already the revenue officials have initiated action to remove the encroachments and removal of the encroachments will be done within a period of two weeks. The said statement of the learned Government Pleader is placed on record and respondent Nos.1 to 4 are directed to remove the encroachments within a period of two (2) weeks from the date of receipt of a copy of this order."

3. Learned counsel for the petitioners submits that in spite of the orders of this Court in the earlier writ petition, the entire encroachment is not removed.

4. There is no propriety in passing the same order again and again. In case the orders of this Court are violated and/or not complied with, the remedy is elsewhere.



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5. In light of that, the writ petition is disposed of. It is for the petitioners to take a proceeding for non-implementation of the orders of this Court. There will be no order as to costs. Consequently, W.M.P.No.40435 of 2018 is closed.

W.M.P.No.67 of 2019 filed to permit the petitioners to file a single writ petition stands allowed and disposed of, inasmuch as the petitioners have paid separate court fee.

(S.V.G., CJ.)

(D.B.C., J.)

03.11.2023

Index : Yes/No
Neutral Citation : Yes/No
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