



W.P.(MD)No.17805 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 04.09.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.17805 of 2023
and
W.M.P.(MD)Nos.14863 & 14864 of 2023

Venkatesan

... Petitioner

Vs.

1.The District Collector,
Pudukkottai District,
Pudukkottai.

2.The Revenue Divisional Officer,
Office of the Revenue Divisional Office,
Pudukkottai District.

3.The Tahsildar,
Pudukkottai Taluk Office,
Pudukkottai District.

4.The Commissioner,
Pudukkottai District,
Pudukkottai.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, to call for the records of the impugned order passed by the



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fourth respondent in Proceedings No.2504/2022/F3, dated 06.07.2023 and quash the same as illegal.

For Petitioner : Mr.C.Deepak
For Respondents : Mr.M.Siddharthan
Additional Government Pleader for R1 to R3
: Mr.S.Kameswaran
Government Advocate for R4

ORDER

Heard the learned counsel on either side.

2. One Vimala filed W.P.(MD)No.21908 of 2022 for removing the encroachment in T.S.No.6085/2, Rajagopalapuram, 3rd lane, Pudukkottai said to have been committed by the petitioner herein. The writ petition was disposed of on 16.09.2022 by directing the Revenue Divisional Officer, Pudukkottai to consider her representation and pass an appropriate order on merits. Pursuant thereto, the Revenue Divisional Officer passed the order dated 25.11.2022 directing the petitioner to remove the encroachment committed by him. The petitioner filed W.P.(MD)No.1001 of 2023. The said writ petition was disposed of on 19.01.2023 in the following terms:-

“5.Considering the fact that the impugned notice has been issued without providing an opportunity to the petitioner, as directed by this Court in W.P(MD)No.21908 of 2022, dated 16.09.2022, the impugned notice is treated as show cause notice and the petitioner is directed to file his



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explanation / objection to the same, placing all the materials in support of his claims before the authority concerned within a period of one week from the date of receipt of a copy of this order. On receipt of such explanation / objection, the fourth respondent is directed to consider the same and pass appropriate orders on merits and in accordance with law, after affording sufficient opportunity to all the parties concerned, within a period of two weeks thereafter. Till such time, the respondents are directed to maintain status-quo as on date.”

Thereafter, enquiry was conducted and the impugned order dated 06.07.2023 came to be passed. Challenging the same, the present writ petition came to be filed.

3. After hearing the learned counsel on either side and going through the materials on record, we are satisfied that the petitioner has indeed committed encroachment on 'Kathipakulam Vaari'. The petitioner has also filed an affidavit before us undertaking to remove the encroachments within six months. We do not want to lose sight of the overall equities obtaining in this case. Vaari is said to be 1800 feet long. It was originally 100 feet wide. We therefore passed the following order on the previous occasion on 08.08.2023.

“The petitioner is given an opportunity to file an affidavit that he will remove the encroached portion on his own so as to minimize the damage that may be caused to the building. If such an affidavit is filed, this Court may consider granting reasonable time for the petitioner to carry out the demolition on his own.

2. The respondents are directed to file a sketch indicating the origin



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and terminal point of the vari and also the encroachment particulars. The length and width of the vari shall also be mentioned. We make it clear that those who have committed encroachment should be uniformly dealt with.

3. Call this case on 17.08.2023.”

On 21.08.2023, we passed the following order:-

“The petitioner has filed this writ petition challenging the notice dated 06.07.2023 issued by Pudukottai Municipality. Notice was issued by the local body pursuant to the direction given in W.P(MD)No. 21908 of 2022.

2. We felt that since encroachment has been committed on a water body, it cannot be allowed to remain. Thereupon, the petitioner filed an affidavit undertaking to remove the encroachment on his own within a period of six months. The said undertaking is placed on record. At the same time, the learned counsel appearing for the petitioner complained that the authorities are being selective in their approach.

3. We also directed the respondents to identify all the encroachments committed in respect of the petition mentioned Vaari. It is seen that there are number of encroachments.

4. The learned Special Government Pleader submitted that the authorities are ready to take action against the other encroachers also. We direct the jurisdictional Tahsildar as well as the Commissioner of Pudukottai Municipality to file an affidavit regarding the course of action proposed to be taken by them to clear all the encroachments on the petition mentioned Vaari.”

4. In response to our directions, the respondents have filed the counter affidavit. We direct the respondents to identify all the encroachments



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and take action as per law against all the encroachers. The petitioner cannot be selectively targeted.

5. The Writ Petition is disposed of accordingly. No costs.

Consequently, connected miscellaneous petitions are closed.

[G.R.S., J.] [B.P., J.]
04.09.2023

NCC : Yes / No
Internet : Yes / No
Index : Yes / No
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