



WEB COPY



W.P No.15114 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.06.2024

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P No.15114 of 2022

Rajammal

.... Petitioner

Vs

1. The District Collector,
Mayiladuthurai District,
Mayiladuthurai – 609 001.

2. The Superintendent of Police,
Mayiladuthurai District,
Mayiladuthurai – 609 001.

3. The Revenue Divisional Officer,
Mayiladuthurai – 609 001.

4. The Inspector of Police (L & O),
Mayiladuthurai.

5. The Village Administrative Officer,
No.51, Bharathiyar Street,
Pattamangalam Village,
Mayiladuthurai Taluk,
Mayiladuthurai District – 609 001.

6. Charubala

.... Respondents

PRAYER : Writ Petition filed under Article 226 of Constitution of India
for issuance of Writ of Mandamus directing the fifth respondent to



W.P No.15114 of 2022

implement the orders of the third respondent in Mu.Mu.2348/2021/A2 dated 28.09.2021 and in Na.Ka.No.3228/2021/A2 dated 24.01.2022.

For Petitioner : Mr.A.Muthukumar
For R1 to R5 : Mr.S.J.Mohammed Sathik
Government Advocate
For R6 : Mr.T.Padmanabhan

ORDER

This Writ Petition has been filed for a direction directing the fifth respondent to implement the order passed by the third respondent, thereby directed to remove the coconut trees owned by the sixth respondent and it causes disturbance to the peaceful possession and enjoyment of the petitioner.

2. Heard the learned counsel appearing on either side and perused the materials available on record..

3. The petitioner is residing at No.2/100, Bharathiyar Street, Srinivasapuram, Mayiladuthurai Town, Mayiladuthurai District. The sixth respondent is his western side neighbour and her house is situated at Door No.2/101, Bharathiyar Street, Srinivasapuram, Pattamangalam Village, Mayiladuthurai. A coconut tree, which is planted by the sixth



W.P No.15114 of 2022

respondent is growing in the western side of the petitioner's house. Its coconuts and all its branches are falling down on the roof of the petitioner's house and her shed. It causes damages on regular basis. Therefore, the petitioner approached the third respondent to take appropriate action as against the sixth respondent to remove the coconut tree. The third respondent, after issuance of notice to the petitioner as well as the sixth respondent, conducted a detailed enquiry.

4. After enquiry, the third respondent passed an order dated 28.09.2021 and directed the petitioner to cut and remove the coconut tree on her own expenses in the presence of the fifth respondent. However, so far the said order has not been complied with. When the petitioner approached the third respondent for non-compliance of the order by the fifth respondent, once again the third respondent directed the jurisdictional police to give aid while removing the coconut tree. However, the fifth respondent failed to execute the order passed by the third respondent.

5. A perusal of the counter filed by the sixth respondent reveals that no appeal has been preferred as against the order passed by



W.P No.15114 of 2022

the third respondent till filling of the counter. Further, the sixth respondent made allegation as against the third respondent. Today, the sixth respondent produced typed set of papers and annexed the appeal filed before the first respondent as against the order passed by the third respondent.

6. A perusal of the appeal shown that it was preferred on 05.09.2022 along with one acknowledgment card. However, the acknowledgment does not reveal that who had sent the appeal to the first respondent. One side of the acknowledgment card had before this Court.

7. That apart, the learned counsel appearing for the first respondent submitted that so far no appeal has been numbered as against the order passed by the third respondent, on the appeal filed by the sixth respondent herein. Therefore, the sixth respondent produced a copy of the appeal as if it was filed before the first respondent only to escape from the clutches of law. That apart, the Appellate Authority is the District Revenue Officer. Instead of appeal before the District Revenue Officer, the sixth respondent submitted an appeal before the first respondent. The sixth respondent, that too without proof to show that,



W.P No.15114 of 2022

filed an appeal before the first respondent.

WEB COPY

8. Therefore, the fourth respondent is directed to give police protection to the petitioner and the petitioner is directed to remove the coconut tree as ordered by the third respondent on her own expenses. The third respondent is directed to take disciplinary action as against the fifth respondent for non-compliance of the order passed by the third respondent.

9. With the above direction, this writ petition stands allowed. No costs.

24.06.2024

Index:Yes/No
Internet : Yes/No
Speaking/Non-speaking order
Neutral Citation : Yes/No
Lpp

To

1. The District Collector,
Mayiladuthurai District,
Mayiladuthurai – 609 001.

G.K.ILANTHIRAIYAN, J.



W.P No.15114 of 2022

Lpp

WEB COPY

2. The Superintendent of Police,
Mayiladuthurai District,
Mayiladuthurai – 609 001.

3. The Revenue Divisional Officer,
Mayiladuthurai – 609 001.

4. The Inspector of Police (L & O),
Mayiladuthurai.

5. The Village Administrative Officer,
No.51, Bharathiyar Street,
Pattamangalam Village,
Mayiladuthurai Taluk,
Mayiladuthurai District – 609 001.

W.P No.15114 of 2022

24.06.2024